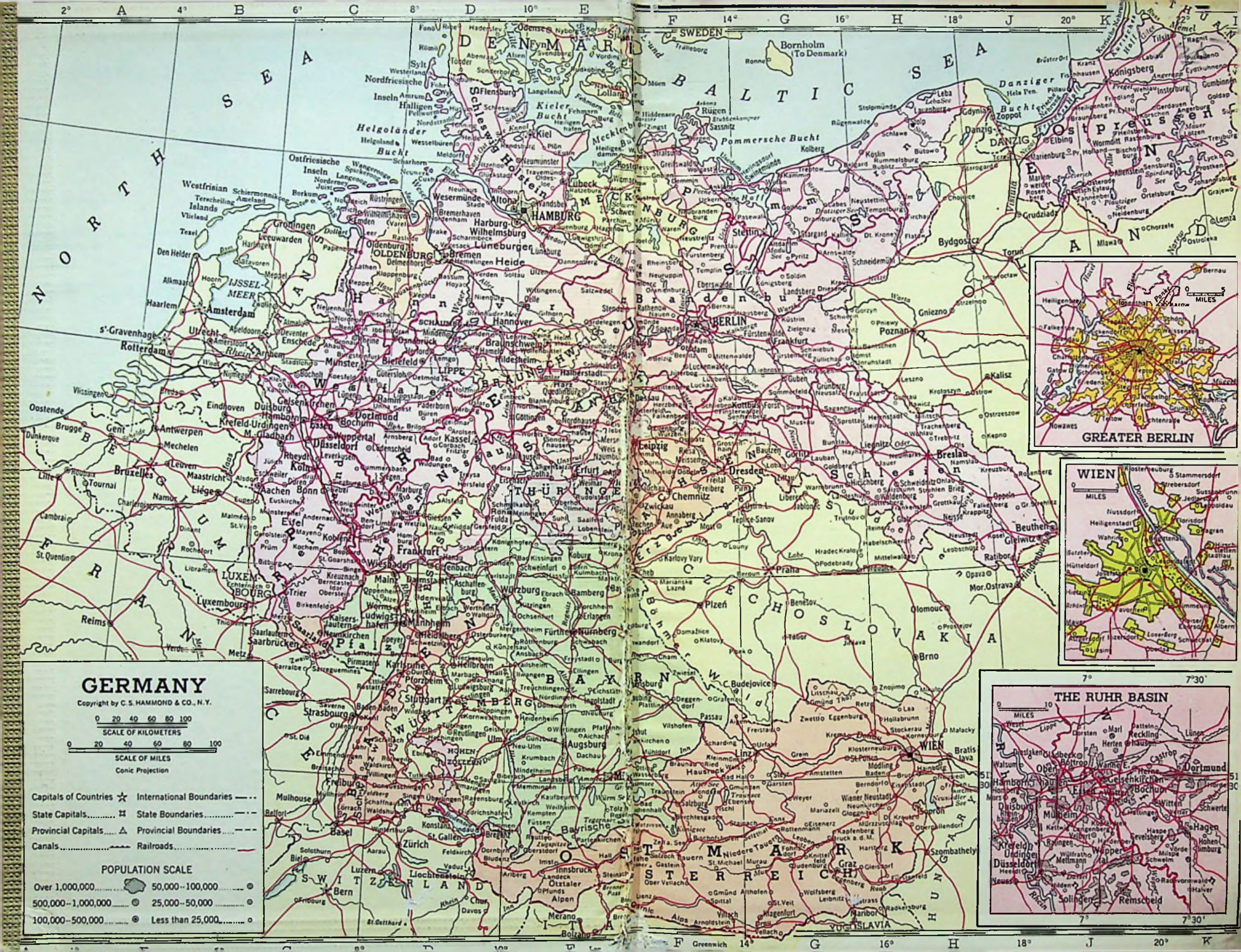
The GOVERNMENT of GREATER GERMANY

JAMES K. POLLOCK


GERMANY
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0 20 40 60 80 100
SCALE OF KILOMETERS
0 20 40 60 80 100
SCALE OF MILES
Conic Projection
Capitals of Countries
State Capitals
Provincial Capitals
Canals
International Boundaries
State Boundaries
Provincial Boundaries
Railroads
POPULATION SCALE
Over 1,000,000
500,000--1,000,000
100,000--500,000
50,000--100,000
25,000--50,000
Less than 25,000
GREATER BERLIN
WIEN
THE RUHR BASIN
NORTH SEA
BALTIC SEA
DENMARK
SWEDEN
Bornholm (To Denmark)
NETHERLANDS
BELGIUM
LUXEMBOURG
FRANCE
GERMANY
POLAND
CZECHOSLOVAKIA
AUSTRIA
SWITZERLAND
HUNGARY
YUGOSLAVIA
Amsterdam
Rotterdam
's-Gravenhage
Utrecht
Eindhoven
Antwerpen
Bruxelles
Liège
Luxembourg
Metz
Reims
Strasbourg
Basel
Zürich
Bern
Hamburg
Bremen
Hannover
Berlin
Dresden
Leipzig
Frankfurt
Köln
Essen
Dortmund
Stuttgart
München
Nürnberg
Mannheim
Wiesbaden
Kiel
Lübeck
Danzig
Königsberg
Ostpreussen
Pommern
Brandenburg
Schlesien
Sachsen
Thüringen
Praha
Plzeň
Brno
Budejovice
Linz
Salzburg
Innsbruck
Graz
Wien
Bratislava
Szombathely
Maribor
Ruhr
Rhein
Donau
Elbe
Oder
Weser
Main
Mosel
Saar
Inn
Drau
Mur
Moldau
Vltava
Labe
Danube
Rhine
Po
Adige
Arno
Tiber
Seine
Somme
Marne
Loire
Rhône
Garonne
Pyrenees
Alps
Apennines
Corsica
Sardinia
Balearic Islands
Mediterranean Sea
Gulf of Lions
Gulf of Genoa
Tyrrhenian Sea
Adriatic Sea
Gulf of Venice
Gulf of Trieste
Gulf of Danzig
Gulf of Riga
Gulf of Finland
Kattegat
Skagerrak
Jutland
Zealand
Fyn
Sjaelland
Rügen
Usedom
Wolin
Hela Pen.
Pillau
Memel
Tilsit
Ragnit
Labiau
Insterburg
Gumbinnen
Goldap
Angerapp
Lyck
Prostken
Sensburg
Johannisburg
Lötzen
Rastenburg
Allenstein
Osterode
Elbing
Marienburg
Marienwerder
Graudenz
Thorn
Bromberg
Gnesen
Posen
Kalisz
Lodz
Breslau
Liegnitz
Görlitz
Bautzen
Kamenz
Zittau
Chemnitz
Zwickau
Plauen
Gera
Jena
Weimar
Erfurt
Eisenach
Kassel
Fulda
Hanau
Aschaffenburg
Würzburg
Bamberg
Nürnberg
Fürth
Erlangen
Ansbach
Augsburg
Ulm
Ingolstadt
Regensburg
Passau
Landshut
Freising
Rosenheim
Garmisch-Partenkirchen
Oberammergau
Füssen
Kempten
Memmingen
Konstanz
Friedrichshafen
Ravensburg
Lindau
Bregenz
Feldkirch
Chur
Davos
Arosa
Zermatt
Brig
Interlaken
Lucerne
Zug
Zurich
Schaffhausen
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Rathenow
Stendal
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Rostock
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Harburg
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Celle
Uelzen
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Wesermünde
Cuxhaven
Emden
Wilhelmshaven
Oldenburg
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Leer
Aurich
Norderney
Borkum
Juist
Langeoog
Spiekeroog
Wangerooge
Helgoland
Sylt
Flensburg
Kiel
Neumünster
Itzehoe
Heide
Husum
Rendsburg
Eckernförde
Schleswig
Apeldoorn
Deventer
Enschede
Arnhem
Nijmegen
Groningen
Leeuwarden
Harlingen
Den Helder
Texel
Vlieland
Terschelling
Ameland
Schiermonnikoog
Haarlem
Leiden
Delft
Rotterdam
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's-Hertogenbosch
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Maastricht
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Vlissingen
Middelburg
Oostende
Brugge
Gent
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Roubaix
Tournai
Mons
Charleroi
Namur
Dinant
Liège
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Malmédy
Eupen
Aachen
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St. Quentin
Rochefort
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Thionville
Verdun
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Landau
Speyer
Worms
Kaiserslautern
Neunkirchen
Saarlautern
Saargemünd
Sarreguemines
Sarrebourg
Saverne
Haguenau
Wissembourg
Lauterbourg
Karlsruhe
Rastatt
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Offenburg
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Naples
Pompeii
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Otranto
Gallipoli
Cape Santa Maria di Leuca
Bari
Barletta
Trani
Molfetta
Giovinazzo
Monopoli
Ostuni
Francavilla Fontana
Manfredonia
Foggia
Cerignola
Lucera
San Severo
Termoli
Campobasso
Isernia
Benevento
Avellino
Caserta
Aversa
Capua
Gaeta
Sperlonga
Terracina
Velletri
Albano
Frascati
Tivoli
Subiaco
Palestrina
Rieti
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Orvieto
Perugia
Assisi
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Oberammergau
Füssen
Reutte
Zugspitze
Kufstein
Wörgl
Kitzbühel
Zell am See
Gastein
Bad Gastein
Badgastein
Salzburg
Hallein
Bad Ischl
Hallstatt
Gmunden
Traunsee
Attersee
Mondsee
Wolfgangsee
St. Wolfgang
St. Gilgen
Fuschlsee
Zell am See
Kaprun
Krimml
Mittersill
Zell am Ziller
Mayrhofen
Hintertux
Finkenberg
Jenbach
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Innsbruck
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Crikvenica
Senj
Karlobag
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Šibenik
Split
Trogir
Omiš
Makarska
Dubrovnik
Cavtat
Metković
Mostar
Sarajevo
Konjic
Jablanica
Prozor
Gruda
Ljubuški
Čapljina
Neum
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Opuzen
Vrgorac
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Trpanj
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Opuzen
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THE GOVERNMENT OF GREATER GERMANY

JAMES KERR POLLOCK

NEW YORK
D. VAN NOSTRAND COMPANY, INC.
250 FOURTH AVENUE
1938

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PRINTED IN THE UNITED STATES OF AMERICA

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BRIDGEPORT, CONN.

TO

ARTHUR N. HOLCOMBE

PREFACE

It is now more than five years since Adolf Hitler assumed the reins of government in Germany. During this period the changes which have been made in the governmental institutions of that country have been both enormous and bewildering. Even today, although the rate of change has slackened considerably, the National Socialist regime continues to fill the statute books with extensive, important, and basic legal and constitutional changes. And even though the end is not yet, one can say with some assurance that the new Nazi State has in these five years taken rather definite shape. Its future development is likely to consist of gap-filling actions which will round out and fill up the whole constitutional structure.

Pending the formulation of a new constitution to which Hitler referred in his anniversary speech on January 30, 1937, it is desirable to understand the main features of the present German governmental and administrative system. Regardless of one's views on National Socialist institutions or policies, the fact remains that seventy-four million people live under the present German regime. Furthermore, because of Germany's position in Europe and the dynamism and power of the German people, it is well to understand as clearly as possible how their present and future development is conditioned by their present political institutions.

To date, a discussion of the forms of German political and administrative activity has been somewhat sacrificed to a discussion of the more burning questions of National Socialist policy. However, governmental and party machinery and administrative management are so important to efficient government that they must be studied regardless of whether one approves or disapproves of the ends being sought or served by the particular regime. Such is the main purpose of this book.

To the student of government the Germany of today is a laboratory of great importance. It presents him not only with all the problems facing a modern government, but it also, by the controversial nature of many of its policies, challenges his best qualities to fathom and evaluate. A new government built on an old superstructure operating in an atmosphere of great tension should be an interesting and profitable subject of study.

A treatment of the present German political system is patently and peculiarly difficult to undertake. The rate of change is quite appalling; the absence of complete information is sometimes embarrassing; and the severe handicaps under which one must work are at times discouraging. But we need light on this dark subject, and the present book attempts to add a little more to what we have already learned from the able researches of others and to bring the whole governmental picture up to date. I beg the reader to recall the sentence which is found on an old stone plaque in the former Hansa city of Lübeck: "*Allen zu gefallen ist nicht möglich.*"

J. K. P.

Ann Arbor
May 25, 1938.

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CHAPTER I

THE PHYSICAL AND CULTURAL PICTURE OF GERMANY

Germany is like a mosaic, the separate parts of which rarely unite to form a coherent whole. Despite all surface appearances, Germany is fundamentally a variety of forces, traditions, and qualities which have never been completely united. Even the World War, which was its first all-embracing national experience, only provided for a time the cement which is required to hold together the infinitely diverse currents of German life.

The historical development of the country shows how small isolated units have been laboriously pulled together to present whatever order and unity there is even in present-day Germany. Hitler is the first leader who has been able to bring the whole German people to accept one firm leadership. Never before have the Germans been able to use their united strength over a considerable period of time in the service of one great plan.

1. Geographical Characteristics.

Even as a geographical area, Germany is difficult to explain. It consists of three rather distinct sections: the northern plain, the central uplands and the Alps with their foothills in the south. The northern plain is a continuation of the undulating plains of Poland and Russia. The central uplands have been called "the real Germany," for they consist of a hundred different worlds developed in feudal times and continuing down to the present. From the Harz mountains to Franconia and from the Rhine to the Riesengebirge one finds a real German nucleus. But in relation to the Alps and the plains the central uplands are in the wrong location.

They should have been the plains and should have been surrounded by the uplands and the Alps.

Germany does not have very satisfactory or definitive frontiers. Against France and Poland there are no natural frontiers and only the seacoast on the north is a well-defined boundary. Even this boundary is interrupted by the Jutland peninsula which is Denmark and also, since the World War, by the end of the Polish Corridor which divides the Baltic coast into two parts.

All of the principal rivers, with the exception of the Weser and the Ems, either originate on alien soil or, like the Danube, leave Germany for other countries. The Rhine, which is Germany's greatest river as well as her symbol, flows through Germany but it rises in Switzerland and debouches in Holland. As an acute German observer has written: "Not one of the geographical features of which Germany is made up, be it plain or upland, Alp or river, is an exclusively German possession. We have to share everything with our neighbors."[1]

2. *Regional Differences.*

Within the boundaries of Germany one is constantly baffled by the complex qualities of nearly every corner.[2] But although it is difficult to peer into all the corners and attempt to understand all of the charming intricacies and diversities, it is much safer to make the attempt than to generalize about North Germany or South Germany, or to try to evaluate the country and the people from Berlin or Munich. The poet Heine put this thought into effective language when he said: "A man must know the whole of Germany if he would understand her. To know a part only is dangerous; for Germany is like the tree in the fairy tale, the tree whose leaves and fruit each contained the antidote for the other's poison."

Regional differences are obviously of great importance. East Prussia is a province of the Prussian state like Hanover and Westphalia, but it has many characteristics which make its whole outlook vastly different from the others. South

[1] Eugen Diesel, *Germany and the Germans* (New York, 1931), p. 30.
[2] O. Ballerstedt, *Grosspreussen und Reichszertrümmerung* (Berlin, 1919).

Germany has a viewpoint entirely different from the North, and the reason is not merely one of religion. The great industrial regions of the West are largely proletarian and bourgeois and in part Catholic; the Southeast is also Catholic but it is filled with large estates of landed aristocrats and it is a melting pot of Slav, Jew and Teuton.

The failure to date of the National Socialists to unscramble the territorial intricacies which abound in Germany is a good indication of the persistence of a very strong feeling of localism and sectionalism. Aside from combining the two Mecklenburgs, consolidating territory around Hamburg and Lübeck, and eliminating the tripartite division of Oldenburg, the Hitler government has made no comprehensive move to reorganize Germany's complicated territorial units into reasonable administrative areas.[3]

The condition of Brunswick illustrates the problem which still remains. This diminutive but charming state consists of six principal areas each separated from the others by parts of Prussia. One of its many exclaves is situated as far away as Bremen. To go from its principal city, Brunswick, to Bad Harzburg in the Harz mountains, one traverses a road which is one time in Brunswick and another time in Prussia. Thuringia, although partially united under the Republic, is likewise split up into several parts, and within its territory contains several Prussian enclaves. A five mile stretch of road in Thuringia changes from one state's jurisdiction to another no less than fourteen times. The Prussian territory of Hohenzollern in South Germany lies in the middle of Württemberg. But in the middle of Hohenzollern one finds a speck of territory which belongs to Württemberg and one corner of Hohenzollern projects into Baden. When the Saar was reunited with Germany following the plebiscite in 1935 several problems of territorial readjustment were solved, thereby eliminating previously existing overlapping of jurisdiction between Bavaria and Prussia.[4] The recent addition of Austria does not simplify the territorial picture but it adds

[3] *Reichsgesetzblatt*, I, 1933, p. 1065 and ibid., I, 1937, p. 91. Hereafter cited RGB. See the proposal known as the "Frankfurter Entwurf" by A. Weitzel.

[4] RGB, I, 1935, pp. 66, 182, 221, 413, 1109, and 1204.

another state of some size and importance to balance against the Prussian giant.

3. Area and Population.

Excluding Soviet Russia, Germany is today the first country in area (214,068 square miles) and the first in population (74,000,000) in Europe. France possesses an area nearly as large and Spain an area slightly smaller than that of Germany. Compared with some of her neighbors, Germany is not unduly cramped for space, for she has nearly twice as much land per head of population as Belgium and the Netherlands. Compared to France, however, she has but half as much land per head of population.

In the last half century there have been important movements in the population. In 1875 nearly two-thirds of the German people lived in rural areas. Today approximately 65 per cent of the population is urban. There are fifty-six cities in Germany proper and three in Austria with populations over 100,000 inhabitants. Twenty-seven of these have populations over 200,000. In sum, nearly one-third of the entire population lives in the fifty-nine cities of over 100,000 inhabitants. Contrariwise, slightly more than one-third of the population lives in rural areas with fewer than 2,000 people. The percentage of Germany's population which lives in large cities amounted to 5 per cent in 1871, 27 per cent in 1925, and 32 per cent in 1936. In other words, in 1871 every twentieth person lived in a large city, and in 1936 every third person. The consequences of this development have naturally been considerable, and they have caused the present regime to take extensive measures to counteract the tendencies.

A movement of the population from East to West, as well as from farm to city, has also occurred. According to the latest census figures, the proportion of inhabitants to the square kilometer was 63.1 in East Prussia but 249.3 in Westphalia; 50.1 in Mecklenburg but 318.3 in the Rhine province. The contrast is more striking when one compares the smaller administrative areas in the two parts of the country. For instance, the proportion of inhabitants to the square kilometer in Allenstein in the east was 48.0, while in Cologne it was 388.2; in Köslin it was 48.6, and in Düsseldorf it was 742.0.

This east to west movement in the population, when taken together with the country to city movement, has given Germany an unevenly distributed population. It has created huge urban problems and it has rendered acute the problems connected with land distribution and agricultural production. Likewise it has developed a serious gap between urban and rural dwellers. Recently the Third Reich has given increasing attention to all of the problems resulting from the new population distribution, and measures have been taken to prevent aimless migration, to stimulate land settlement, to establish hereditary farms (now numbering around 700,000) and to set up a national planning (*Reichsstelle für Raumordnung*) office to coordinate all activities looking toward a better use of Germany's territory and resources.[5]

The social effects of the annexation of Austria are not yet clear. Vienna with 27.7 per cent of Austria's population poses certain problems. The more even distribution of population, however, and the absence of numerous large cities, make the problem less acute in Austria than in Germany.

4. Social Conditions.

Long before the Great War, Germany had developed a closer social stratification in terms of personal income than is the case in Great Britain or the United States. German progress in the field of social legislation has likewise been notable. Because of efficient collective organization and the German genius for cooperative enterprise, the German people have enjoyed a rather high standard of housing, clothing, and food. Similarly in cultural matters, they have enjoyed greater advantages than the people of any other European country. They have also been able to maintain a high educational level and although Germans are inclined to regard themselves as poor and hard-pressed, foreigners are usually struck with the clean, orderly, well-kept appearance of German cities and German homes and inhabitants. The salary scale, however, and the wealth per head of population is much below that of several other countries which may appear

[5] RGB, I, 1933, p. 463, p. 626, and p. 685; also RGB, I, 1935, p. 468 and p. 793.

poorer. Hence wage and salary scales shown in statistical studies have been and are today a very unreliable guide to real social conditions in Germany. The German state takes care of many services which in other countries the citizen must provide for himself out of his own income.

5. Natural Resources.

About 90 per cent of Germany's one hundred sixteen million acres are productive. Approximately seventy-one million acres or 61 percent of the total are under agricultural cultivation. It is estimated that of the five million acres of uncultivated moors and waste land in Germany about one-third can be made arable by drainage. About 80 per cent of all the food and fodder consumed in Germany is domestically produced. The most productive crops are rye, beets, turnips, oats, wheat, barley and potatoes.

The natural resources of the German soil include coal, potash, salt, zinc, lead, iron, copper, bauxite, oil and other minor ores. Of these only the mining of coal and potash rank as important commercial enterprises. Germany relies on foreign imports for a greater part of her supplies of the following important raw materials: oils, fats, fruits, raw silk, cotton, wool, flax, hemp, jute, iron, copper, nickel, rubber, timber, hides and tobacco. The annexation of Austria has not eliminated these deficiencies.

6. Religion.

Germany has two principal religions, the Lutheran and the Catholic. Geographically the Catholic population, which constitutes about 36 per cent of the total population, is distributed among five principal areas: southern Bavaria, the Rhine Province, Westphalia, Upper Silesia, and Austria. The remaining two-thirds of the population is Lutheran. Only passing mention need be made of the Jews, for they constitute less than one per cent of the population, or about five hundred thousand persons. From 1925 to 1933 the Jewish population declined from 9 per thousand to 7.7 per thousand.

Religious matters have been important in Germany's development, but the old religious frontier is no longer very tightly

drawn. Munich has a large Protestant, and Berlin a large Catholic population, and in Swabia and Franconia villages alternate in being Protestant and Catholic. The presence of one predominant religious group is of course discoverable in an area and the atmosphere of a city is much affected by the presence or absence of a great Cathedral and all the historical associations which go back to the religious wars of the seventeenth century. There is, for instance, a vast difference between Bamberg and Halle, and between Münster and Stettin.

Today with church matters under the jurisdiction of a cabinet minister, and the party policy emphasizing uniformity of belief and the supremacy of the state, serious religious conflicts are once more raging. This time, however, the conflict is not between Protestant and Catholic, but between the new National Socialist Christians, or Neo-Pagans as they have been dubbed by their enemies, on the one hand, and the two established churches, Lutheran and Catholic, on the other.

Sweeping measures have been taken by the Government to bring the Confessional Lutherans into line with National Socialist thought. The end of the conflict has certainly not yet arrived. In fact, religious difficulties constitute a grave menace to the success of the National Socialist regime. The Catholic church, like the Lutheran, has fought further intrusions of party activities into church affairs, going so far as to allege a breach of the Concordat with the Papacy and to read pastoral letters in the churches attacking the Nazi regime as ungodly. The Government, however, has not lessened its militant campaign against certain priests and pastors, and Dr. Alfred Rosenberg, the party spiritual supervisor, who refers to the present struggle as the "Roman-Protestant Counter Reformation," continues his glorification of the Nazi ideology by making it into something akin to a religion.[6]

7. *Communications.*

Germany possesses one of the greatest and most efficient railway systems in the world. The *Reichsbahn*, which is the German state railway system, is the largest business concern in Europe, employing nearly six hundred thousand persons.

[6] See Chapter VII.

Recently there has been a spurt in building motor roads and some seven thousand kilometers of new highways will be completed by 1939. This road building program, aside from giving Germany a splendid, modern road system, has also provided work for some four hundred fifty thousand workers. A Nazi official recently told the party congress that this road construction was a greater feat than the building of the Panama Canal or the construction of the four Cheops pyramids.

Germany has always attached considerable importance to her inland waterways. At the present time, large sums are being expended in the improvement and extension of the country's canals and waterways. The Adolf Hitler canal in Silesia, the coastal canal between the Weser and the Ems, the Central German Canal (*Mittelland-Kanal*) and the canal which is to connect the Rhine and the Danube, are now either completed or in process of completion. About forty-five thousand men are working on the inland waterways. In 1935, Germany had seventeen thousand seven hundred ships with a total tonnage of 6.4 million on inland waterways. Of these, three thousand five hundred ships were in the Rhine district. In sum, over 20 per cent of the goods transported in Germany are carried on inland waterways.

Posts and telegraphs are government owned and operated. The Post Office with some three hundred thousand employees, in addition to handling the usual postal and telegraphic services, operates several thousand motor buses, an air service, a picture telegraph service and a ticker service. Its expenditures amount to around a billion and a half Reichsmarks per year.

The German *Lufthansa*, which is the sole corporation entrusted with the running of the air services, has had a remarkable increase in passenger traffic. The German Broadcasting Company, which is owned by the Government and controlled by the Ministry of Propaganda, is responsible for all radio programs. Some seven million five hundred thousand registered listeners-in are using radio sets at the present time.

CHAPTER II

THE GOVERNMENTAL EVOLUTION OF GERMANY

1. Germany up to 1918.

For more than a thousand years Germany has had experience mostly of the imperial kind, with various forms of government, and in this respect is one of the oldest countries in the world. Its governmental heritage must consequently be understood.

The period of the Holy Roman Empire (1273–1806) is important in German political development because attention was directed to European more than to German affairs. While France and Britain were developing strong national states, Germany was creating and strengthening a multitude of local units, both religious and political. Its governmental tendencies were fissiparous, not centralizing. The Thirty Years' War (1618–1648) resulted in setting back social and political developments by two hundred years, and created religious divisions which to this day have continued to militate against a unified system. With authority suspended for the three decades of the war, law and order had to be restored and governmental machinery re-created.

Under the Great Elector in the seventeenth century, and under Frederick the Great in the eighteenth century, great progress was made toward the establishment of territorial and governmental unification. The Great Elector developed an efficient administrative machine and made the beginnings of a career service. The structure he developed was rounded out by his grandson King Frederick William I, who has been called the father of the merit system in Prussia. Frederick the Great (1740–1786), through his leadership and administrative capacity, further developed an *esprit de corps* in the

Prussian state service and justified his regime as the embodiment of the public interest and as a service to the state. Thus by the end of the eighteenth century Prussia had developed an efficient administrative machine, and merit principles had advanced so far that the Prussian General Code of 1794 could provide that "an office shall not be conferred upon anyone who is not sufficiently qualified and has not given evidence of his ability."

Under her capable dynasty, Prussia soon emerged as the most powerful German state, and began to be the nucleus around which the later German Empire was to be built. But the territorial disintegration of Germany was the most important single barrier to German progress. There were Bavarians and Saxons, Hanoverians and Prussians—not Germans; there were spiritual and secular Princes, imperial towns, Dukes, and tiny areas under jealous rulers. When Napoleon overran all these independent political jurisdictions, there were altogether nearly eighteen hundred of them. These different political units were also separate economic areas with their own customs barriers; they had different brands of absolutism; and the only thing they had in common was the resolve to maintain their own dynasties at all costs.[1]

The Napoleonic period was of great significance for Germany. First of all, most of these diminutive, autonomous principalities and dukedoms were combined, and Germany's political picture was consequently simplified. Eventually only thirty-three units survived the process of amalgamation. Perhaps of equal importance, the French Revolution excited Germany and a genuine national feeling was generated among the people.

By the time the Treaty of Vienna was signed, Prussia and the other German states were exhausted, but they were free of foreign domination. They were now enabled to put their abilities to work in rebuilding their territories on a new basis, and in developing their governmental systems along more modern lines. In Prussia particularly, great strides were being taken in the internal regeneration of the state. Under

[1] See James Bryce, *The Holy Roman Empire*, and Erich Brandenburg, *Die Reichsgründung* (Berlin, 1922), 2 vols., 2nd edition, for a treatment of this situation.

Freiherr vom Stein and Prince Hardenberg, two exceedingly competent officials, Prussia gave self-government to her cities, abolished serfdom, allotted property to the peasants, abolished the guilds and introduced freedom of trade, granted equal rights to the Jews in 1812, and in 1815 even held out the prospect of a new Parliament.[2]

Stein, in particular, was anxious to introduce some popular leaven into the administrative system. He was opposed to extreme centralization and he believed in popular consultations. His influence was not immediately effective, but one looks back now to his vision and judgment, and today finds his name used by the National Socialists in their new German Municipal Code and in the Civil Service Act.

Although the Treaty of Vienna marked the end of Napoleon's domination and resulted in the re-establishment of Germany's crazy-quilt political pattern (somewhat simplified it is true), it practically placed Prince Metternich in a position to block further unification in Germany. Up to 1848, therefore, the German Confederation, recognized by Article VI of the Treaty of Paris of 1814, consisting of "the sovereign princes and free cities of Germany" including both Austria and Prussia, took no constructive steps to give Germany a unified government. The Confederation did result in concentrating federal aspirations on Prussia, and in developing a certain economic unity.[3] But it demonstrated primarily the impossibility of having both Austria and Prussia in the same field.

The next date in Germany's governmental evolution is 1848. In this year a wave of revolutions swept over Europe and had a profound effect in Germany. On May 18, following some preparatory work which was done earlier, there assembled in Frankfurt-am-Main "the German constituent national assembly" summoned to formulate a new constitution for Germany. The liberal opinion which welled up in Germany had driven monarchs from their thrones and had brought into existence this group of intelligent patriots who

[2] See Ernst Meier, *Die Reform der Verwaltungsorganisation unter Stein und Hardenberg* (Leipzig, 1881).

[3] A Prussian-German Customs Union was formed which by 1836 included some twenty German states.

yearned for a liberal constitutional regime for the whole of Germany. Their exhaustive debates, however, prevented early decisions, and when on March 28, 1849, they finally made public a completely new constitutional charter which consisted of one hundred ninety-seven paragraphs, carefully drawn and accurately phrased, liberal sentiment had died down and ruling monarchs had regained their confidence. Without reflecting on the distinguished and able members of the convention, or in any way under-valuing the remarkably sound and brilliant constitution which they prepared, one must observe that the times demanded prompt action and not great constitutional debates. Thus the liberal effort of the Frankfurt Parliament was not successful and Germany did not again have the opportunity until 1919 to establish a people's charter. Absolutism was permitted to continue, and Germany's whole future history was directed into reactionary channels.

The Frankfurt constitutional effort of 1849 nevertheless has real significance. In the first place it contemplated more than a mere league of independent commonwealths. The German Reich was to be a federal state and not a confederation. Furthermore, the sovereign personal rulers were to lose their powers and the sovereignty of the state was to be established. Certain fundamental rights of the German citizen were also laid down and carefully guaranteed in the constitution. Finally, a responsible parliamentary system of government was proposed by offering the state's headship to "one of the governing princes" and by requiring him to secure the countersignature of at least one national minister who was responsible to Parliament.

Unfortunately for Germany, Frederick William IV of Prussia, in agreement with the other German kings, rejected the title offered him. Many Germans, among them Karl Schurz, despaired of the German political future after the failure of the liberal effort of 1848 and 1849, and embarked for the United States. Following the World War, however, in the Weimar Constitutional Convention, the Frankfurt constitution was revived and greatly influenced both the deliberations and the final draft of the Weimar constitution.

After the failure of the Frankfurt Parliament, a number

of efforts were made in the years up to 1863, to revive the plan for a unified state. All of these efforts ended in failure. In 1862 Prince Bismarck came on the scene to assist the Prussian king in handling a recalcitrant *Landtag*. His entry on the political stage brought a new approach to the solution of the eternal German problem of unification. Blood and iron were the watchwords and by successfully prosecuting three wars in one decade, Bismarck placed Prussia in a position where she could dominate the German scene and control the destinies of the German people. Following the seizure of Schleswig-Holstein in 1864, Bismarck quarrelled with Austria, and in the brief war of 1866 succeeded in excluding Austria from German affairs and in creating a new North German Confederation.

The Constitution of the North German Confederation of 1867 was a step forward in national centralization, but it did not create a central governing agency with power over all the twenty-two member states. The barest provisions for unity were included; the popularly elected Reichstag was only a sop to the public, for the Chancellor was responsible alone to the federal chief, who was the King of Prussia; and federal laws were to be executed by the states. But Bismarck in this brief constitution provided the model for the imperial constitution which was to follow the war with France in 1871. This last war, in pursuance of Bismarck's policy, resulted in bringing into the German Reich the South German states which had not been included in the North German Confederation. In fact, the inclusion of Bavaria, Württemberg, Hesse-Darmstadt and Baden into a union with Prussia and the other German states, was of more importance than the change to the imperial constitution in 1871.

When the German Empire was proclaimed at Versailles, only a few changes in the constitution of the North German Confederation were necessary. The president of the union, who was King of Prussia, was now called German Emperor; instead of referring to the league as a confederation, it was now to be called a Reich; and certain "reserved rights" remained with the South German states, which states were now added to the Reich. Thus a new state was not created, but rather an old one enlarged. A new fundamental charter was

not framed—an old one was merely extended to include several new members. There was, therefore, complete legal continuity between the North German Confederation and the Empire.

The period of German political development, extending from April 16, 1871, when the Constitution of the German Empire was proclaimed, down to the collapse of the monarchy in November, 1918, contains much of value and interest for the student of political institutions and provides as well a necessary foundation to the student of German government. It furnishes, in the first place, a good deal of material about federalism. Under the German Empire, the states retained all powers which were not expressly or by implication given to the Reich. They were represented in the upper house or Bundesrat and fourteen votes in this body could block a constitutional amendment. The Bundesrat, through which the federal principle really operated, was a congress of ambassadors from the states, and all of the twenty-five states were represented in it by one or more delegates. Prussia had seventeen votes, Bavaria six, Württemberg and Saxony four, the remaining states three, two or one votes making a total of fifty-eight. So great were the powers of this body that Bismarck one time declared that "sovereignty does not rest with the Kaiser but rather with the combination of governments bound together."[4] All laws required the consent of the Bundesrat, all supplementary decrees were issued by it, a declaration of war or a dissolution of the Reichstag required its approval, and differences between the states were to be settled by it.

Futhermore, the federal nature of the system was demonstrated by the fact that execution of federal laws was placed in the hands of state officials. In the main, administration was likewise a state matter under national supervision, except in the post office, the navy, Alsace-Lorraine, and in the diplomatic and consular services where the administration was national. Aside from a few special federal courts, legal affairs were handled in state courts.

[4] Gerhard Anschütz and Richard Thoma, *Handbuch des Deutschen Staatsrechts*, vol. 1, p. 72

But behind this facade of decentralized administration, the great state of Prussia with its powerful army and efficient civil service occupied the controlling position. Many of the most important acts in such fields as military affairs and customs could not be taken without Prussia's consent, and most important of all the Kaiser was at the same time King of Prussia, and was empowered to appoint the National Chancellor who was the highest official of the Reich.

In the Reichstag, which was popularly chosen, there was an appearance of democracy, but in reality the universal male suffrage provision was largely offset by discriminatory apportionment provisions which, as time passed, resulted in an under representation of the large cities and industrial areas. The ministry, as Professor Spencer has well stated it, "was hardly more than a body of civil servants under the direction of the chancellor." [5] No cabinet responsibility to the popularly elected Reichstag existed.

The whole governmental system really centered in the office of the Chancellor, which, until 1890, was held by Bismarck. This powerful official was responsible to the Kaiser and had to retain his confidence. He also required the consent and support of the Bundesrat to most of his plans, but this body was complaisant. He also had to keep the Reichstag informed of his major policies, and needed their approval for laws. But he was not subject to votes of confidence and governed quite above, or perhaps on occasion, between the parties represented in the Reichstag. The National Chancellor was also at the same time head of the Prussian government where he had no difficulty in governing without much regard to opinion in either house of the *Landtag*.

With such a great concentration of power in one office, and with such a complicated governmental apparatus, it was natural that certain difficulties would appear. Between the civil and military authorities trouble arose. Similarly the Prussian administration, which was based on a plutocratic legislative system, developed differently from the national administration, which more and more had to pay attention to the democratically elected Reichstag. Also, the dual position of the

[5] Henry R. Spencer, *Government and Politics Abroad,* p. 351.

Chancellor as Minister-President of Prussia led to serious jurisdictional disputes among the officials under him.

Despite these difficulties and a number of serious governmental crises, Germany developed rapidly under the Empire and enjoyed a material prosperity and an inner harmony greater than ever before in her long history. Some thirteen amendments were made to the text of the constitution of 1871,[6] but it remained at the outbreak of the war what it was in the beginning—an admirable document for concentrating power in a few hands, for permitting army domination, and for preventing popular control. In 1914 Germany had no real self-government as a nation. The Reichstag, unlike its counterpart in Britain, had not secured the control of the purse, and had only served as a public forum in which abuses could be aired. The great increase in Social Democratic strength constituted a growing threat to the autocratic regime, but at no time did the parties seriously challenge the constituted authorities, and when war was declared, meekly and willingly supported the Kaiser and the military leaders.

At the outbreak of the war, in accordance with the constitution of the empire, the military authorities became supreme and the civil power was transferred to them. Even the Kaiser complained in 1918 that he was ignored both by the Reichstag and the army. He was forced to dismiss the Chancellor in July, 1917, and to bring about other personnel changes in high positions because the general staff desired them. Administration became highly centralized and the war bureaus extended their control over every field of private activity. Berlin became the political center, and although the Reichstag did not actually cease to exist, it was not until the spring of 1917 that it regained enough consciousness to begin an agitation for constitutional change. This discussion eventuated in October, 1918, in modifications of the constitution of 1871 and in the introduction of parliamentary government in Germany. But the changes came too late to have any effect in preserving the imperial regime, and when the crash came in November, the old system fell to pieces, crown, parliament, and army.

[6] F. Hartung, *Deutsche Verfassungsgeschichte vom 15 Jahrhundert bis zur Gegenwart*, 3rd edition, 1928, pp. 161-185.

2. *The Revolution of 1918 and the Establishment of the Weimar Republic.*

The impending collapse of the German army became apparent to the high army command after the failure of the spring offensive of 1918. The relationship between officers and men was very unsatisfactory, the losses were tremendous —four hundred twenty thousand men killed and wounded in the period from July 18 to November 11—and supplies were getting scarce. On September 29, therefore, request was made to the Allies for an armistice. This move gave concrete evidence of the breakdown of the military forces, and even the great Field Marshal Ludendorff admitted it.[7] Then on October 23, President Wilson's third note was issued in which it was made clear that a complete surrender would be insisted upon unless peace negotiations could be conducted by persons other than the military rulers and governmental autocrats. This meant the abdication of the Kaiser, and the idea soon was in the air. Finally on the night of October 30, a third development precipitated the revolution. The sailors in Kiel pulled their fires rather than obey a rash order to steam out of the harbor and attack the English fleet as a last grand gesture. This was mutiny, but the nation was ready for it and in a few days Germany was in full revolt. On November 8, a Bavarian republic was proclaimed in Munich. On November 9, the Chancellor, Prince Max von Baden, announced the abdication of the Kaiser, who after stubbornly refusing to accede to the advice of the Chancellor, suddenly ran away to Holland. He did not sign a formal renunciation of the throne until November 28. On the same day as the announcement of the abdication, November 9, Philip Scheidemann, one of the Social Democratic leaders, proclaimed a republic from the steps of the Reichstag.[8]

[7] See also General Max Hoffmann, *The War of Lost Opportunities* (London, 1924) and the voluminous work of an investigating committee of the National Assembly called *Untersuchungsausschuss über die Weltkriegverantwortlichkeit.*

[8] The most authoritative accounts of the revolution and the formation of the republic in Germany are by Walter Jellinek in *Jahrbuch des öffentlichen Rechts der Gegenwart*, vol. 9, pp. 1-128, and R. H. Lutz, *The German Revolution, 1918-1919* (Stanford, 1922).

During the three following months Germany experienced a period of serious conflict. The Social Democrats constituted the only organized party able to take over the government. Fritz Ebert, their leader, took over the chancellorship from Prince Max, quite without legal authority, but in response to the will of the revolutionary forces. Power was thrust into the hands of his party. The Majority Socialists, as they were called, formed an executive council of six with the Independent Socialists, who were left-wingers—later calling themselves the Communist Party of Germany. Three from each group made up the Council, and it was their task to restore order, establish a government, and end the war. In a short time the gradualist Socialists found themselves in serious disagreement with the left-wing element. Ebert and Scheidemann, however, were equal to the demands made upon them and on December 19 at the Congress of Workers' and Soldiers' Councils in Berlin, they were able to carry a motion, four hundred votes to fifty, setting January 19, 1919, as the date for popular elections to a national constituent assembly.

Thereafter the left-wingers or Spartacists, as they were called, boycotted the elections and endeavored to overthrow Ebert and seize power. On January 5, they attempted to control Berlin. But although the revolutionary government headed by Ebert was without military support, they were able to rally the people around them to protect the government buildings until a military force could be formed. The German Communists, unlike their Russian comrades, could not bring themselves to the point of shooting their own countrymen. Other attempts to overthrow the Ebert government occurred at different points in Germany throughout the early part of 1919.

Nothing developed, however, of sufficient importance to interfere with the election of delegates to the constitutional convention. Under a new list system of proportional representation, and with all German men and women over twenty years of age voting for the first time, the German nation on January 19, 1919, elected four hundred twenty-one delegates to the constituent assembly. Of the thirty million five hundred twenty-four thousand votes which were cast (83 percent

of the qualified voters), the Majority Socialists received eleven million five hundred nine thousand votes to two million three hundred seventeen thousand votes for the left-wing revolutionaries, and this gave the Ebert group one hundred sixty-three seats to twenty-two for the other radicals. The votes for all the other parties amounted to sixteen million and the seats were divided among these groups as follows: Catholic Center party, eighty-nine seats; Democratic party, seventy-four seats; Nationalists, forty-two seats; and the People's party, twenty-two seats. The nine remaining seats were divided among four small parties. The Catholic Center, the Democrats, and the Social Democrats together constituted a clear majority in the national assembly.

Two days after the election the assembly was summoned to meet in Weimar on February 6. Here in the charming city of Goethe and Schiller, of Herder and Liszt, the delegates assembled in the quiet atmosphere of the National Theatre, far away from the noise and disturbances of Berlin. Ebert in opening this "constituent assembly of the German nation" declared that the mandate which the revolution had given to the provisional government was now placed in the hands of the national assembly, "the sole and highest sovereign in Germany." From this time on until the first Parliament of the republic was elected, the assembly was the sole body entitled to speak for the German people.

The convention contained a very distinguished and capable group of delegates, among them being such persons as Kahl, Schücking, Delbrück, Koch, and the Graf zu Dohna. The number of lawyers and judges was much smaller than in the ill-fated Frankfurt assembly of 1848, while the number of workers, writers, and journalists was much greater. The jurists were not able, therefore, to run away with the constitution, although they were able to make great contributions to its excellence.

The first action of the convention was to enact on February 10 a law for the provisional government of the Reich. This law vested complete power in the national assembly, and provided for the election of a national president by that body, for the appointment of a ministry responsible to it, for a committee of the states to act as an upper house, for the enactment

of all necessary legislation, and finally for the preparation of a constitution. On February 11 Ebert was elected President and two days later informed the assembly that he had formed a cabinet in accordance with the requirements of the provisional constitution. The second action of the assembly was to pass an interim act on March 4 according to which all laws of the empire or of the Council of Six (the revolutionary executive council) were to remain in force in so far as they were not superseded by the provisional constitution enacted on February 10. The convention was now free to perform its principal function of formulating a new constitution. During its deliberations on the constitution, however, it accepted the treaty of peace on June 27.

Before the delegates had assembled early in February, Professor Hugo Preuss was commissioned to prepare a draft constitution for consideration. On the opening day of the convention, Preuss presented a proposed constitution to the delegates. This draft, the second one Preuss had prepared, had been submitted to a conference of state representatives on January 25. Deliberations in this conference resulted in changing certain provisions of the Preuss draft, and this third draft of the constitution was submitted to the committee of the states which was the temporary upper house of the new republic. The committee of the states, after due deliberation, prepared a fourth draft which was the one finally submitted to the assembly. A committee on the constitution was then set up consisting of twenty-eight members from all parties. This committee made further changes and returned the fifth draft to the assembly for final action. After nearly a month's discussion, a sixth draft was produced which, with a few alterations on third reading, was passed by the assembly two hundred sixty-two votes to seventy-five. The constitution thus proposed by the assembly was signed by President Ebert and the members of the cabinet on August 11, and promulgated as the supreme law of the land on August 14. No popular vote was required and on this day of promulgation the imperial constitution of 1871 as well as the provisional constitution of February 10, 1919, were superseded.

The convention had eighty-six sittings, all but one of which

were in Weimar.[9] After September 30 the assembly, which under article 180 of the new constitution became the Reichstag of the republic, met in Berlin. Its last meeting occurred on May 21, 1920, for on June 6, 1920, the new Reichstag was elected by the people and came into session on June 24.

In the newly created German states, provisional constitutions closely patterned after the national constitution were promptly proclaimed. By the end of February, 1922, all of the states had superseded these temporary charters with permanent constitutions and the new republican structure was thus made complete.[10] Only nine rather unimportant textual amendments were added during the thirteen and a half years of the operation of the Weimar constitution.[11]

3. *The Weimar Constitution.*

The new German constitution was a remarkable document of which any nation could be proud. It drew its democratic and liberal inspiration in part from the ill-fated constitution of 1849 and its mildly socialistic flavor from the revolution of 1918. It borrowed extensively from American, British and French experience, and it created a neatly balanced structure which harmonized the particularistic sentiments of the states with the unitary ideas of the Social Democrats.

Looking back now after five years of National Socialist government, a number of the outstanding features of the Weimar system appear worthy of explanation. First of all, it is important to note that the German system of parliamen-

[9] The debates and records of the Weimar Convention are to be found in a set of nine volumes by Ed. Heilfron, *Die Deutsche Nationalversammlung im Jahre 1919* (Berlin), and also in *Verhandlungen der verfassunggebenden Deutschen Nationalversammlung,* vols. 326-343 (Berlin, 1920).

[10] These constitutions may be found in O. Ruthenberg, *Verfassungsgesetze des deutschen Reichs und der deutschen Länder.*

[11] These amendments were added as follows: two on August 6, 1920, and one on each of the following dates: November 27, 1920, March 24, 1921, October 27, 1922, December 15, 1923, March 18, 1924, May 22, 1926, and December 17, 1932. Other statutes about which there was some constitutional doubt were passed with the required constitutional majority of two-thirds. See Poetzsch-Heffter in *Jahrbuch des öff. Rechts,* vol. 13, pp. 226-227; vol. 17, p. 139; and vol. 21, p. 201.

tary government operated in practice under several handicaps. The first of these was the requirement of approval of laws by the upper house or Reichsrat, a procedure which at times interfered with the immediate enactment of legislation passed by popular majorities in the Reichstag. Next and more important, the President could for instance, refuse to give his signature to appointments and treaties which the cabinet desired, and also, at times of cabinet building, exert considerable influence in the choice of the chancellor and the other ministers. There was thus created a dualism in the executive power which later bred serious conflict. In addition, the chancellor was not like the old imperial one; he was merely the presiding officer of the cabinet with a deciding vote, and except in a few instances where men of some force held the office, was scarcely more important than his colleagues. In other words, the office of chancellor did not stand out as a national position with great powers of leadership. In Britain, none of these handicaps existed.

Furthermore, the multiplicity of political parties created serious difficulties in the formation of cabinets, in their actual deliberations, and in the control of their policies by the Reichstag. Parties could always be found to vote against any government, usually from a variety of motives, without being willing or able to take over the responsibility themselves. They would all gladly vote "no," but if they had been required to agree upon a definitive, uniformly based conclusion, they could not have agreed. The parties were not all willing to assume governmental responsibility, and parliamentary difficulties invariably meant party difficulties. In fact, a curious result of the party situation was to cause governments to fall not because of votes of no confidence as in France, but because of differences among the parties making up the government coalition. Parliamentary government necessarily works with some difficulty in any country with a multi-party system, but in Germany this defect crippled the whole system. Hugo Preuss put the matter succinctly when he said: "Parliamentary government does not intend that Parliament or its various party fractions in their manifold irresponsibility should govern, but that a government should consist of clearly responsible persons who are the recognized

leaders of the organized ruling public opinion of the people as represented in the Reichstag." [12]

The formation of cabinets was always a difficult task. The struggle between the parties for places, and within the parties among individuals desiring appointment became a real embarrassment for the democratic system. At times many days elapsed before a new cabinet could be constructed. In 1925 it required forty-six days and in 1926 forty-three days to form a new cabinet. In the meantime, the old cabinets continued as acting cabinets. Places were not always allotted to the leaders of the parties, and often the largest party was not included in the government.[13] In the fourteen years of the republic up to the accession of Adolf Hitler in 1933, Germany had twenty different cabinets, an average tenure of office of slightly over eight months.[14] Fortunate it was under these conditions that the civil service was permanent and efficient and thus able to soften the vicissitudes of party warfare.[15]

Another feature of the Weimar system deserving attention was the operation of state government. The republic had a strong federal government, but it contained seventeen states each with its own legislature, its own system of local government, and its own representatives in the Reichsrat. The states had much less power than under the empire, but they still controlled education, agriculture, and the police. Prussia still was the most powerful state with three-fifths of the territory and 60 per cent of the population. At the other extreme was Schaumburg-Lippe, that gem of the Weser valley

[12] Anschütz und Thoma, *Handbuch des deutschen Staatsrechts,* vol. 1, p. 510.

[13] It is interesting to note that during the alleged "fourteen years of Marxist rule in Germany," the Social Democrats held but fifty-five ministerial posts out of a total of two hundred fifty-one in twenty cabinets, and had but six out of twenty of the Chancellors. Social Democratic Chancellors furthermore held office altogether for just over three years out of the fourteen.

[14] Despite the frequent cabinet upsets, certain ministers held office for reasonably long periods. For instance, Stresemann held the Foreign Office post for six years, Brauns was Minister of Labor and Gessler was Minister of Defense for eight year periods in ten different cabinets. See Lindsay Rogers and others in *Political Science Quarterly,* vol. 46, pp. 336-351, for a treatment of the German cabinet.

[15] Another point worth mention is that a cabinet member did not have to be a member of parliament. Many such members were appointed. They were usually *Fachminister* or experts.

with an area of three hundred forty square kilometers and forty-eight thousand people. Both states had popularly elected legislatures with responsible cabinets, although the territory of the latter state was completely surrounded by that of the former. Many fascinating studies in politics and administration were provided in all of these interesting subdivisions of the Reich.[16] But one could hardly justify the expensive duplication and illogical areas involved in having the Reich split up into such unequal parts. The Reich was weakened although the basis of local self-government was not strengthened. Also state politics bulked too large in a country where state powers were relatively weak.

Again, the republic developed an intensive party life.[17] Nowhere else in the world could one find stronger and more effective party discipline, and only in England could one find as efficient party organization. The whole country was covered with a net-work of political organizations constantly directed by machines as strongly intrenched as any in the world. The party system was afflicted with too many small "splinter" parties which frequently made it difficult for parliamentary coalitions, and which blurred the electoral picture by dividing the popular vote in too many ways. In fact, this was the most serious problem in connection with party government in Germany, and a slight change in the electoral law to rule out these small parties—a change which was made eventually but alas too late—could probably have liquidated the problem.

It is true that certain other features of party government in Germany were not ideal. The nominating process was pretty much in the hands of the party leaders, parties came to represent class or economic interests, the formulation of party policy was not always based on true democratic principles, and plutocratic influences were present in the raising and expendi-

[16] The author may at this point be pardoned the shedding of a tear. With great profit and pleasure, he had sojourned in every one of the German states, from tiny Anhalt to lovely Württemberg, observing their administrative and political practices with the intention of preparing a *magnum opus* on German state government. The abolition of the states in 1934 left the author disconsolate with a manuscript of several hundred pages, now destined never to see the light of day!

[17] See my study "The German Party System" in *American Political Science Review,* vol. 23, pp. 859-891 (November, 1929).

ture of party funds.[18] But on the whole the Germans made a remarkable start during the republic in developing the political machinery necessary to keep democracy going. One party, the Social Democratic, had imposing central offices, adequate district offices, adequate machinery for deliberation and control by the rank and file, a paid-up membership of close to a million—altogether as well organized as any other party in the world with the possible exception of the Conservative party in Britain. Unfortunately, however, this party was lacking in great leaders and when the critical days of 1932 came along, the Social Democratic leaders were better trade union secretaries than great and courageous statesmen.

The party situation was greatly affected by, if not actually conditioned by, the system of proportional representation which prevailed. This system of "strictly binding lists" required the voters to accept the party lists as offered by the party managers. One voted for a party and not for a candidate. This particular system of proportional representation strengthened the party machine, limited the individual choice of the voters, permitted too many small parties, eliminated by-elections, and made it difficult if not impossible for the Reichstag member to keep in close touch with his enormously large constituency. If these features had been eliminated and proportionalism continued as a principle, German republican institutions would have operated more successfully. Since P. R. was used universally in all elections, national, state, and local, the cumulative effect of its defective provisions was to cause a weakening of the whole representative system and thus to undermine the republican structure.[19]

Finally, several particular institutions set up in the Weimar constitution have some historical significance and therefore deserve treatment, namely the Reichstag and Reichsrat, the initiative and referendum, the Presidency, and article 48. The German Parliament consisted of two houses, the Reichstag elected by the people and the Reichsrat composed of representatives of the states. The popularly elected chamber

[18] See my *Money and Politics Abroad*, pp. 205-278 (New York, 1932).

[19] See my *German Election Administration* (New York, 1934), pp. 51-65, for a discussion of proportional representation in Germany, and for a description of the elaborate election administration which existed.

was well housed and staffed, it developed the practice of using the expert civil servants in committee deliberations, and in legislation it confined itself largely to general policy, leaving the details to be worked out in supplementary decrees. On the other hand, it never developed any real debating ability. Discussions were quite wooden and stereotyped, not spontaneous and interesting. Here again the binding force of party drove discussions into a rigid mold, one member following another according to the size of the party he represented, and presenting his party's, not his own, point of view. Interruptions were not made to elicit information nor to straighten out a point, but rather to inconvenience a speaker and to arouse opposition. Most of all from the point of view of the success of the democratic system, the Reichstag did not develop any real control over the purse or over foreign affairs, and its standing committee for the protection of the rights of the representatives of the people against the cabinet set up in article 35 of the constitution, did not save that body from being made ridiculous and finally innocuous in 1932. The sharing of legislative power with the Reichsrat was another feature which, however useful from the point of view of improving legislation, tended to weaken the popular basis of control.

The Reichsrat occupied a more prominent place than at first appeared. It gradually became more and more influential as it exercised its powers of qualified disapproval over Reichstag acts, of approving supplementary decrees, and of being consulted and informed by civil servants of the work of the administrative agencies. The members were usually well trained civil servants with wide experience, and it was soon found desirable for them to give their full time to the work of the Reichsrat. As an aid and adviser to the cabinet and its individual ministers and employees, as a check on the Reichstag, as an influential nominating and appointing power, not involved in political changes—least of all as a representative of the states to settle state differences—the Reichsrat became one of the great centers of power under the Weimar constitution, and one of its most interesting institutions.

Another democratic feature of the Weimar constitution and of the state constitutions was the detailed system of direct

government provided through the initiative and referendum.[20] Very elaborately, the Germans provided for an appeal to the people in five different types of cases, involving possible conflicts between the Reichstag, the Reichsrat, and the President. Provision was also made for a recall of the President by the people upon suspension by two-thirds of the Reichstag. In the states, legislatures could be dissolved by popular vote. Seven attempts at initiative proposals were made in all in the national sphere, but only two reached a popular vote. In both of these cases the referendum was unsuccessful, although in one of them in 1926 on the question of confiscating the princes' property, fifteen million voters went to the polls.[21] In the states and cities, rather sparing use was made of the initiative and referendum although on occasion these direct instruments of popular rule had considerable effect as in Saxony in 1922 and in Brunswick in 1924.

As an instrument of popular control, however, the initiative and referendum did not cut much of a figure in republican Germany. The provision requiring one-tenth of the voters to sign initiative petitions, together with the proviso that a majority of the qualified voters take part in the vote and with the strict system of requiring signatures to be given only in the official registration offices, militated against the success of the system.

The President, like the Reichstag, was chosen by the people and was designed to be something like the English king or the French president.[22] With more time, it is likely that the office would have developed along lines similar to the English and French executives. But under the trying conditions of parliamentary government, not to mention the crucial international and domestic problems, the Presidency came to be of immense importance. The first President, Fritz Ebert,

[20] The best treatments of this subject are Georg Kaisenberg, *Volksentscheid und Volksbegehren;* Richard Thoma in *Journal of Comparative Legislation and International Law,* vol. 10, pp. 55-73; L. S. Greene in *American Political Science Review,* vol. 27, pp. 445-454; and Roger H. Wells in *National Municipal Review,* vol. 18, pp. 29-36.

[21] See the article by Kaisenberg in *Staats und Selbstverwaltung,* vol. 10, no. 24, pp. 561-564 (December 16, 1929).

[22] See H. J. Heneman, *The Growth of Executive Power in Germany* (Minneapolis, 1934), for a thorough discussion of the German Presidency.

conducted his office with tact and ability, but his successor, the great Field Marshall von Hindenburg, gradually permitted himself to wander away from democratic and parliamentary principles, and in the end to become the destroyer of the Weimar system.[23] This was accomplished through the constitutional powers of the office, the immense prestige of Hindenburg himself, and the convenient instrumentality of article 48.

This dictatorship article, which as Professor Rogers has pointed out "is known the world over by number rather than by content," permitted the President in times of emergency to take all necessary measures to restore public safety and order. His measures, however, required the Chancellor's countersignature, and they could be revoked by the Reichstag. In the early years of the republic considerable use was made of this article for quite necessary purposes.[24] But after 1930, the article came to be used for purposes and in a manner which eventually led to the destruction of responsible democratic government. This will become clear as the history of the years from 1930 to 1933 are unfolded.

But before presenting the rather thrilling list of events leading up to the accession to power of Adolf Hitler, it is well to complete the discussion of the Weimar republic by adding a few words about some important subjects which have not been treated in the foregoing institutional survey. For in truth, the Weimar democracy, despite its detractors, was able to record many substantial achievements.[25] During the period of the republic a great creative urge put Germany among the leading nations in invention, in the application of science to industry, in housing, in architecture, in art and in literature. Conditions which stimulated and produced creative work in these various fields were present, and a new flowering of the German genius occurred. Max Reinhardt, Gerhart Hauptmann, Thomas Mann, Lion Feuchtwanger, Emil Ludwig, Professor May, are all names of world-wide

[23] See Emil Ludwig, *Hindenburg* (Philadelphia, 1935).

[24] See Lindsay Rogers and others in *Political Science Quarterly*, vol. 47, pp. 576-601.

[25] See the excellent study by Oswald Garrison Villard, *The German Phoenix* (New York, 1933).

importance connected with achievements in music, in drama, in literature, and in architecture.

The universities took on a new significance, and with the emancipation of women, the field of higher education was taken up with avidity by thousands of young women who heretofore had been trained in the three K's: *Kinder, Kirche, und Küche.* In the international field, Germany had made great progress. From the dismay, disillusionment, and chaos in which her imperial and military leaders had left her in 1918, she had in ten years rehabilitated herself in the confidence of the world, and under the superb leadership of Stresemann had been admitted to membership in the League of Nations. Foreign troops were withdrawn from the Rhineland and the distressing problem of reparations was well on the way toward solution. Militarism had vanished, business once again came into its own, and the individual German enjoyed a degree of freedom, and a standard of living which had been unknown before. The onset of the depression in 1929 and the intrigues and force acts of 1932 and 1933 cannot erase this record of the republic's achievements.

4. Germany from March, 1930, to March, 1933.

On March 27, 1930, the Cabinet headed by the Social Democratic leader Hermann Müller, was ousted by a combination of bourgeois and peasant parties. Dr. Heinrich Brüning, a member of the Catholic Center, was appointed Chancellor but his Cabinet did not possess a majority in the Reichstag. Brüning found that the parliamentary regime had bogged down and that the problems confronting the country were so urgent that something had to be done to get action. He soon resolved on the use of the famous article 48 in order to secure the enactment of the financial measures deemed necessary to meet the emergency. When the Reichstag refused to ratify his measures, he requested the President to dissolve that body so that the nation could settle the differences which existed between cabinet and parliament.

On September 14 the election was held and a new Reichstag was returned. The most amazing result of the election was the increase in the National Socialist strength. Their representation increased from twelve to one hundred seven in

a body of five hundred seventy-seven members and their popular vote grew from eight hundred nine thousand to six million four hundred six thousand. Even under proportional representation, a landslide had occurred, and in two years the Nazis had risen to second place in the party constellation. Before these elections they were not particularly important. From this time forward they continued to hold the center of the stage.

In the same election, the other revolutionary party, the Communist, similarly made significant gains, increasing its representation in the Reichstag to seventy-seven members. Thus the Chancellor was between two fires, one on the Left and one on the Right, both able to muster at least one hundred eighty-four votes against any liberal cabinet. Brüning's support had to come principally from the Social Democrats, yet no members of this party held seats in his cabinet, only the Center, Democratic, German People's, and Bavarian People's parties being represented.

But the government had to be carried on and Brüning resolutely continued to use article 48, occasionally calling the Reichstag together for a few days to secure their approval to his measures on threat of another dissolution. Whereas no serious use had been made of article 48 in the years from 1925 through 1929, in 1930, and especially in 1931 and 1932, almost a hundred decrees were issued under its provisions.[26] Nevertheless, one should not overlook the fact that however much article 48 was being stretched for emergency purposes, democratic control was still preserved by regular Reichstag approval. Because of the negative attitude of many of the parties, however, no alternative government was possible, and since the representatives of the people were so hopelessly divided, it was natural for the other representative of the people, namely the President, to come more and more into the picture. Consequently, the Reichstag, which had had ninety-four sittings in 1930, had but forty-one sittings in 1931 and only thirteen sittings in 1932,[27] and the President authorized

[26] See L. Rogers and others, *Political Science Quarterly,* vol. 47, pp. 576-601.

[27] See Poetzsch-Heffter in *Jahrbuch des öffentlichen Rechts,* vol. 21, p. 101.

the extensive use of article 48 above referred to. In fact, only five laws were passed by the Reichstag in 1932 compared to fifty-nine decrees. The cumulative effect of the economic crisis, the weaknesses of the democratic system, and the aggressiveness of the extreme parties shook the republican system to its foundations. The events of the year 1932, however, were quite as determining of the future course of the German people as the events which came earlier.[28]

As the year 1932 opened Chancellor Brüning endeavored to avoid the presidential election which was due, by asking for a constitutional amendment to extend Hindenburg's term. The Nationalists and Nazis refused. Brüning had no other alternative but to plunge Germany into the turmoil of a great election contest just at the time when he was beginning to see both an improvement in the domestic economic situation and a growing respect abroad.

The Chancellor threw himself unstintingly and devotedly into the electoral campaign to secure the election of the old President. Hindenburg was at that moment the center of intrigues against Brüning, and later, taking the government into his own hands, summarily dismissed the Chancellor. Germany, during these early months of 1932, was at sixes and sevens. The Nationalists were against Hindenburg, the Socialists for him. The Catholics were voting for a Protestant, the Protestants for a Catholic. Only the Communists were consistent, but by putting up their independent candidate, they caused a second or run-off election which provided Hitler with another golden opportunity for election demogoguery, and thereby further stirred up the people and weakened the democratic regime. The first presidential election was held on March 13, 1932, and resulted as follows:

Hindenburg	18,651,000	votes	49.6%
Hitler	11,339,000	"	30.1%
Thälmann	4,983,000	"	13.2%
Duesterberg	2,557,000	"	6.8%
Winter	111,000	"	0.3%

[28] The account given in Emil Ludwig's *Hindenburg*, pp. 442 ff., is the best (and because of his acquaintance with Brüning probably the most authoritative) which has yet been written.

The ballot used in this election (shown on the opposite page) has considerable historical interest. Up to this campaign, Hitler had not acquired German citizenship. But citizenship was a necessary qualification for the Presidency. It was convenient for Hitler that his party controlled the state of Brunswick, and by being made a governmental counsellor (*Regierungsrat*) in one of the German states, Hitler acquired German citizenship. Hence the title which he used on this ballot.

A second election became necessary because of the lack of a majority. In the second election, which occurred on April 10, Hindenburg was elected.

Hindenburg	19,359,000	votes	53.0%
Hitler	13,418,000	"	36.8%
Thälmann	3,706,000	"	10.2%

A million fewer voters had taken part in the second balloting, but Hitler had increased his votes by over two million. And the end of elections was not yet! On April 24 elections to five state legislatures, including the Prussian, took place, and the National Socialists as a result of these elections were able to overthrow the Social Democratic government in Prussia, although they did not secure enough votes to put in a government of their own party. In Bavaria, in Württemberg, and in Hamburg, the Hitler party vote fell below that received in earlier elections. Perhaps the radical movement would subside after all.

Unfortunately for Brüning, however, his enemies were undermining his position both at home and abroad. Shortly afterwards, when he went to Geneva, he was acclaimed by the representatives of the various governments attending the League session, who were profoundly impressed with his achievements. He was able to secure the agreement of Britain, America, and Italy to his demands for the cancelling of reparations. But Tardieu, the French Premier, had been told by his ambassador in Berlin that Brüning's fall was imminent and that it would be imprudent to agree to Brüning's program. General von Schleicher is probably the man who engineered this fatal stroke against Brüning which also kept Brüning from securing the credit for a great diplomatic

BALLOT USED IN FIRST PRESIDENTIAL ELECTION OF 1932

Reichspräsidentenwahl

Theodor Duesterberg Oberstleutnant a. D., Halle a. d. Saale	○
Paul von Hindenburg Reichspräsident, Generalfeldmarschall, Berlin	○
Adolf Hitler Regierungsrat im braunschweigischen Staatsdienst, München	○
Ernst Thälmann Transportarbeiter, Hamburg	○
Adolf Gustav Winter Betriebsanwalt, Großjena bei Naumburg a. d. Saale	○

achievement. From this time on, moves behind the scene were more important than those in the open, and the principal actors were General von Schleicher, Herr von Papen, and the President's son, Oskar von Hindenburg.

When Brüning returned home he was not immediately received by the President. Eventually on May 29 Hindenburg informed the Chancellor that he was withdrawing his confidence and was refusing to sign the proposed decrees of the Brüning cabinet dealing with the East Prussian estates. Whereupon there was nothing left for the Chancellor but resignation, even though two weeks before, his government had secured a vote of confidence in the Reichstag two hundred eighty-seven votes against two hundred fifty-seven. The National President had assumed the power of forcing the resignation of a cabinet which possessed the confidence of the Reichstag, and promptly appointed a so-called cabinet of "national concentration," no member of which possessed a seat in the Reichstag. The name of Franz von Papen, erstwhile military attaché in America where his reputation for directing German war activities had not been forgotten, was pulled out of the hat in the now famous *Herren Klub*, for the position of Chancellor, and the other portfolios went to gentlemen similarly well-born and possessing the confidence of the President. Von Papen became the first Chancellor of the republic to be appointed without reference to the Reichstag.

Immediately the Reichstag was dissolved by the President, "since it no longer represents the political will of the German people as expressed in the results of elections for the legislatures of the German states which have taken place in recent months." The much abused German people were now confronted with the fourth electoral campaign in four months and the Reichstag was rendered *hors de combat*. Emergency decrees were issued, among them one restoring to the extreme parties the right to wear uniforms. Almost immediately disorder increased—as might have been expected—and this situation offered the excuse for a veritable *coup d'etat*, the second of great importance, the first being Hindenburg's withdrawal of confidence from Dr. Brüning.

This political stroke, which occurred on July 20 in the

midst of the election campaign, was the seizure of the government of Prussia. The Prussian Minister of the Interior, Severing, one of the Social Democratic leaders, yielding to force during a period of martial law in Berlin, handed over control of the police to the von Papen government. This meant that the last stronghold of the republican forces had been captured, and the only rival force against Hindenburg had been removed. Later the Supreme Court in a decision upheld the legality of this seizure of power, although it qualified its words to permit only the displaced Prussian cabinet to represent Prussia in the Reichsrat. This was small comfort for the republic, and even the strong protest of the Bavarian cabinet, and a resolution of the Reichsrat which was passed fifty-four votes against seven, protesting against the measures taken against Prussia, had no effect. The President was ruling Germany, and his ministers knew what they wanted and were determined to get it. The so-called funeral oration delivered by Chancellor von Papen on the anniversary of the Weimar constitution on August 11 should go down in history as one of the most brazen and insincere public efforts ever made by any German Chancellor.

The weakness displayed by republican leaders in these stirring days, permanently injured the republican regime. Instead of summoning their forces for the defense of the democratic constitution, they meekly submitted. No general strike was called, the Prussian police offered no resistance, and the republic at that moment practically came to an inglorious end. Three elections were still to be held before complete liquidation of the republican regime occurred, but these events only served to demonstrate further the anemia with which republican forces were afflicted.[20]

July 31 was election day. Once again the Hitler forces emerged triumphant, securing a popular vote of thirteen million seven hundred seventy-nine thousand. This gave them two hundred thirty seats in the Reichstag out of a total of six hundred eight. The Social Democrats secured one hundred thirty-three seats, the Communists eighty-nine, and the Catholics with their Bavarian allies ninety-nine. Eighty-four per

[20] See the vivid account given by Edgar Ansell Mowrer, *Germany Puts the Clock Back,* Ch. 1.

cent of all the qualified voters participated in this election, but what did they decide? The Reichstag had been dissolved because "it no longer represented the political will of the German people." This new body then must represent popular opinion, for it came fresh from the people. But where did the von Papen cabinet come in? No more than forty-five votes in the new Reichstag could be gathered in support of the government. About 93 per cent of the Reichstag membership, in other words, belonged to parties which were opposed to von Papen. Under these circumstances the cabinet delayed calling the new Reichstag together until the last possible moment. Negotiations with Hitler came to naught after a stormy interview with Hindenburg, and the Nazis renewing their opposition to the "Cabinet of the Barons," started a violent campaign in the country.

On September 9 the Reichstag under Göring's presidency, entered upon its second sitting. Without objection in a full meeting of that body, a Communist motion to annul the emergency decrees and to express a lack of confidence in the government was placed on the orders of the day. After a half hour's recess, Göring called the Reichstag to order and started the voting. The motion was carried five hundred twelve votes against forty-two! Never in the whole history of parliamentary government had such an adverse vote been recorded against a government. But von Papen had placed an order dissolving the Reichstag on the desk of the house while the voting was taking place. This dissolution order of the President's read significantly: "I dissolve the Reichstag because the danger exists that the Reichstag will demand the repeal of my emergency decree of September 4th of this year." First the Reichstag was dissolved because it did not represent the opinion of the people, and then when it did so represent popular opinion and expressed itself against the government, it was sent back home again!

Thus for the fifth time in one year the German people were disturbed by another election. Surely popular government was being discredited and the people were being made weary and disillusioned by these maneuvers of the conspirators who were now the real rulers of Germany. But as Professor Lichtenberger well remarks: "It is a significant fact

that in such a situation the country did not stir." [30] Even when the Reichstag Committee of Control (*Uberwachungsausschuss*) investigated the situation and found that the dissolution violated the sense and spirit of the constitution, nothing was done.[31]

On November 6 the new Reichstag was elected. This time the von Papen cabinet increased its support from forty-two to about sixty seats. In other words, only 85 per cent of the Reichstag was now opposed to the government as against 93 per cent in the previous body. As one wit remarked at the time, if the government had two elections every year for ten years, perhaps they might get a majority at the end of this period. Regretfully, however, the old President accepted von Papen's resignation on November 17. After very interesting negotiations with Hitler had failed to produce a cabinet based on a parliamentary majority, General von Schleicher was made Chancellor of another presidential cabinet.[32]

The November elections had been a blow to the Hitler movement. Their popular vote had decreased from thirteen million seven hundred seventy-nine thousand to eleven million seven hundred thirty-seven thousand, and in local elections held later there was a further decline. Dr. Goebbels wrote in his diary of the "desperate situation." The Communists, however, increased their representation in the Reichstag to one hundred and their popular vote to just under six million. With General von Schleicher in the saddle, with his well-known tendency to work with the labor groups and with the strong support of the army, there was hope that a strong hand had at last appeared which could bring order out of chaos. When the Reichstag met in December, no adverse motions were made against the cabinet, and a general conciliatory line was followed by the Chancellor.

Former Chancellor von Papen, however, continued to be Hindenburg's confidant. He retained his residence in the chancellery because von Schleicher did not wish to live there, and the President moved to this same building while the

[30] Henri Lichtenberger, *The Third Reich*, p. 43.
[31] See *Jahrbuch des öffentlichen Rechts*, vol. 21, pp. 68-72.
[32] *Ibid.*, vol. 21, pp. 162-173; and Heneman, *op. cit.*, pp. 153-158.

presidential palace was undergoing repairs. The Chancellor soon found that his position was being undermined. These intrigues, when added to the opposition among the Junkers caused by von Schleicher's revival of the Brüning plan of land settlement in East Prussia, and by the disclosures of a Reichstag committee investigating the large subsidies which had been made to East Prussian landed families (called the *Osthilfe*), finally caused an open break between Hindenburg and Schleicher. Meanwhile Hitler and von Papen had patched up a plan, and the Nationalists under Hugenberg became partners to the understanding. The president refused a dissolution when Schleicher requested it and on January 28, 1933, the cabinet resigned. Immediately von Papen was commissioned by the President to examine the situation for him.

It is believed that von Schleicher at this moment contemplated a military *putsch* and intended to use both the army and the trade unions. But nothing happened and Hitler was summoned by the President to form a coalition cabinet in which only three other Nazis were members. Von Papen became Vice-Chancellor and Hugenberg, the nationalist leader, was given the two portfolios of Agriculture and Economics. Thus on January 30, 1933, Adolf Hitler, who had been refused the Chancellorship twice before by the President, now became the head of the government. Perhaps both of these gentlemen had forgotten the President's letter of November 24, 1932, when Hindenburg refused Hitler's request for power in these words: "The President cannot avoid being afraid that this will lead to a partisan dictatorship with all its consequences."

On February 1 the President granted Hitler's request for a dissolution of the Reichstag, the members of which by this time had become mere puppets running back and forth asking for votes.[33] On February 6 a sweeping decree "to pro-

[33] The President's order of dissolution read as follows: "Since the formation of a majority capable of functioning has not proved possible, I dissolve the Reichstag on the basis of article 25 of the national constitution, in order that the German people by means of the election of a new Reichstag may express themselves with regard to the newly formed government of national concentration" Pollock and Heneman, *The Hitler Decrees*, 1st edition, 1934, p. 9.

tect the German people" was issued under which severe restrictions were placed on public meetings, demonstrations, and publications.[34] Von Papen was made National Commissioner for Prussia, displacing the Prussian ministry in contravention of article 17 of the national constitution as well as against the decision of the *Staatsgerichtshof* of October 25, 1932. The *Staatsrat* of Prussia consisting of three men was thus illegally taken over by the government and a dissolution of the Prussian legislature was ordered.

Despite the presence of von Papen and the other conservatives in the cabinet, the Nazis ran the government from the first. An entirely new tone was introduced into German public life, at once daring, aggressive, fanatical and unscrupulous. In the midst of the election campaign on February 27, the Reichstag was set on fire by a Dutch communist. This spectacular event, whatever its origin,[35] inflamed the whole nation on the eve of the vote, and gave the government the excuse to issue another sweeping decree "to prevent communistic acts of violence."[36] With the parties of the left successfully prevented from extensive electioneering, and with the Reichstag fire before them, the German people went to the polls on March 5 and sealed their fate for some time to come.

It is important to analyze the election figures. Thirty-nine million six hundred fifty-five thousand voters took part in the election. This represented 88.7 per cent of all the qualified voters. Following is the distribution of the vote:

National Socialist Party	17,277,000	43.9%	288	seats
Social Democratic Party	7,181,000	18.3%	125	"
Communist Party	4,848,000	12.3%	81	"
Center Party	4,424,000	11.2%	74	"
Nationalist Front	3,136,000	8.0%	52	"
Bavarian People's Party	1,076,000	2.7%	18	"
Others	1,401,000	3.6%	9	"

Several observations about these figures should be made. Despite stringent police regulations, the Communists were still

[34] *Ibid.*, p. 9.
[35] For a critical view of the Reichstag fire and trial, see Douglas Reed, *The Burning of the Reichstag* (New York, 1934).
[36] Pollock and Heneman, *op. cit.*, p. 10.

able to secure a sizable vote, and the Social Democrats held their own. Together with the Centrists and their allies the Bavarian People's party, the anti-Nazi group, secured two hundred ninety-eight seats out of a total of six hundred forty-seven. In other words, this group possessed more than enough votes in the Reichstag to prevent any change in the constitution by legal means. The Nazis, on the other hand, although securing a large vote, were not able to secure a clear majority in their own name, and therefore needed the votes of their Nationalist allies. At this stage, however, Hitler was determined to overthrow the Weimar regime, and he made this resolve very clear when he addressed the Reichstag on March 23. The Communists were prevented from attending this session, and only ninety-four of the one hundred twenty-five Social Democrats were permitted to be present. At the end of his speech, Hitler used these words: "In order to place themselves in a position to fulfill the tasks outlined above, the Government have had the Enabling Bill introduced in the Reichstag by the National Socialist and German National parties. Part of the proposed measures require the majority necessary for constitutional amendments. The carrying out of these tasks is necessary. . . . The Government will only make use of these powers in so far as they are essential for carrying out the vitally necessary measures. Neither the existence of the Reichstag nor that of the Reichsrat are menaced. The position and rights of the President of the Reich remain unaffected. It will always be the foremost task of the Government to act in harmony with his aims. The separate existence of the federal states will not be done away with. The rights of the churches will not be diminished, and their relationship to the state will not be modified. The number of cases in which an internal necessity exists for having recourse to such a law is a limited one. All the more, however, the Government insists upon the passing of the law. They prefer a clear decision in any case. They offer the parties of the Reichstag the possibility of a peaceful settlement and, consequently, of an understanding to be arrived at in the future. *But the Government are equally resolved and ready to meet the announcement of refusal and*

thus of resistance. It is for you, gentlemen, now to decide for peace or war!" [37]

In the face of this threat, the Social Democrats did not cringe, but the Centrists, putting faith in the moderate tone of the Chancellor's proposals and swallowing their scruples, voted with the Government. By a vote of four hundred forty-four to ninety-four, the enabling act was passed.[38] Thereafter in swift succession came a series of important cabinet acts which eliminated the Communists from the Reichstag, caused the dissolution of all other parties including the Nationalist, and placed supreme control in the Nazi party, but more particularly in the hands of its leader, Adolf Hitler. Germany had made another transition to a new kind of government.

The Weimar republic succumbed to the Third Reich of Hitler for many reasons. Above all, it broke down under the crushing tasks imposed upon it by the war and the Treaty of Versailles. It was forced to liquidate the mistakes and calamities of the old regime, and deal with foreign powers which mistrusted it and which only belatedly gave it their confidence. In the second place, it was undermined by intrigues and treachery which surrounded the presidential office. Hindenburg was in truth the agent of the German people who led them along the path of dictatorship and away from democracy. Furthermore, the republicans lacked courage and determination. Their forces crumbled without a fight, and the force acts of the Nazis and their immediate predecessors were accepted without a struggle. The German people themselves must also carry the responsibility for Hitler's accession to power. They did not stir themselves against the intrigues and arbitrary acts of the governments which succeeded Dr. Brüning, and they allowed themselves to be frightened by the alleged communist menace. They could have eliminated Hitler in the March election of 1933 or earlier, but they rallied to his standard in sufficient numbers to enable him to complete his plan. Their political inex-

[37] *Verhandlungen des Reichstags,* VIII Wahlperiode, p. 32.
[38] *Ibid.,* p. 45.

perience, the economic distress, the foreign pressure, and the intrigues and force acts were too much for the regime; and in the face of a determined, fanatical force sweeping the country with surprising power, the Weimar system collapsed.

CHAPTER III

THE NATIONAL SOCIALIST PARTY

The National Socialist party is the instrument by means of which the Weimar republic was supplanted by the Third Reich. In republican days, it was one of several parties. Today it stands alone as "the bearer of the German government and inseparably connected with the state." Hence, one desiring to understand the government of Germany must first understand this "source of strength for the people and the Reich" which we frequently refer to by the initials of its full name, the *NSGWP* (National Socialist German Worker's Party). In all countries political parties are of fundamental importance in motivating, implementing, influencing, or controlling government. In Germany today, this is preëminently the case with the National Socialist party in power, and the apparatus of the state becomes even of secondary importance to the ruling party organization.

1. The History of the National Socialist Movement.

This impressive party machine which now governs Germany has an interesting history. It is the lineal descendant of the German Worker's party of 1919—a group of six obscure men who had no program and most important of all, no money. These men invited a corporal of the second infantry regiment named Adolf Hitler to join them as the seventh member of the party. The invitation was accepted and after a year of intensive activity, the party membership increased to sixty-four, and its name was changed to the National Socialist German Worker's party. The young recruit Hitler proved to be the moving force in the small group. He soon developed great speaking ability, he prepared and distributed leaflets, and he rapidly dominated the other group leaders.

a. *Der Führer.*

Hitler's life story up to this time had been quite ordinary.[1] He was born in 1889 in Braunau in Austria, just across the river Inn from Bavaria. His father was a small customs official, and his mother came of rather obscure peasant stock. Young Adolf's relations with his parents appear to have been unhappy. He was not interested in following in his father's footsteps and his mother impressed upon him how different he was from other children. His father died when he was thirteen years old and his mother when he was fifteen. As an orphan of seventeen years, he went to Vienna to study painting. But his lack of elementary training prevented him from entering the academy and he was forced to shift for himself doing odd jobs here and there. His life in Vienna was most unpleasant, and it was here that he developed a strong dislike for Jews. In 1912 he went to Munich. Here he tells us in his autobiography, he spent the happiest and most contented years of his life. When the war came in 1914, he volunteered and was finally accepted for service in the Bavarian army, even though he had been rejected for military service earlier in Austria. He fought four years in the war, was indisputably a brave soldier, was wounded twice and decorated with the Iron Cross (first class), and just at the end of the war was severely gassed. He was recuperating in a hospital when the German revolution occurred. When he left the hospital he returned to Munich, swearing to become a politician.

b. *Early Beginnings of the Party.*

The party which he joined and which he made into a rather effective local group should be studied in three periods: from its beginnings in 1919 down to the *Putsch* of 1923; from its

[1] Hitler's autobiography called *Mein Kampf* provides most of the essential facts of his life. Parts of it have been translated into English by E. T. S. Dugdale as *My Battle* (Boston, 1933). Satisfactory lives of Hitler have been written by Emil Lengyel, *Hitler* (London, 1932), by Konrad Heiden, *Adolf Hitler*, 2 vols. (Zürich, 1936-37), and by Czech-Jochberg, *Hitler, Eine Deutsche Bewegung* (Oldenburg, 1933). A valuable study of Hitler's personality structure is found in the article by Professor H. D. Lasswell, "The Psychology of Hitlerism," in *Political Quarterly*, vol. 4, pp. 373-384. A critical study both of Hitler and of his Autobiography is by Rudolf Olden, *Hitler* (New York, 1936).

rebuilding in 1925 to the accession of power of Hitler in 1933; and from 1933 to the present. In the first period the party was only of local consequence in Munich and parts of Bavaria. But regular meetings were held and on February 25, 1920, at a great meeting in the *Hofbraü Haus* in Munich, a party program consisting of twenty-five points was announced to the world.[2] After discussion at a later meeting of party members, the program was declared to be "unalterable"—that is, the principles and leading ideas contained in it are not to be tampered with.

Hitler's success as a speaker was evidenced by the crowds he was able to draw to party meetings. In 1921 he spoke to five thousand people in the *Zirkus Krone*, regaling them with passionate denunciation of the "dictate of Versailles." In 1922 he spoke before sixty thousand people in the *Königsplatz*. In 1922 and 1923 the party became involved in serious altercations in various parts of Bavaria with the "Reds." The storm troops were organized to be the shock troops of the movement, and a considerable increase in membership occurred.

Hitler had become leader of the party in the summer of 1921. He established the leadership principle and would not tolerate any interference with his orders. A larger headquarters for the party was obtained and several of Hitler's friends were placed in key positions in the organization. Max Amann became secretary of the party, Göring was made leader of the Storm Troops (*SA*), and Feder provided Hitler with the economic ideas he needed in his speeches. Aggressive attacks were made against the government and by 1923 the party was forbidden in seven of the German states including Prussia. The party seemed to thrive on opposition and in January, 1923, held its first party conference in Munich. In February, the *Völkischer Beobachter* became the party's daily newspaper. In this year, the French invaded the Ruhr and Hitler made the most of the consequent confusion and resentment which developed in Germany.

On the evening of November 8, 1923, Hitler, after what he thought were careful preparations, and in the belief that the police authorities would not resist him, fired a shot in

[2] See *Source Book*, IV, pp. 9-13.

the ceiling of the *Bürgerbräukeller* in Munich and announced his intention of overthrowing by force the republican government of Germany. But on the following morning when his forces paraded through the streets, they were met with the cold steel of the *Reichswehr*, and a fusillade of shots was sufficient to disperse the Hitler forces. Hitler himself was injured in falling violently to the pavement to avoid machine gun bullets, but he escaped, only to be captured two days later and placed in prison. This misadventure led to the proscription of the party throughout Germany and to the trial in the month of March, 1924, of several of the party leaders for high treason. The court sentenced Hitler to five years imprisonment and gave lesser sentences to other leaders. Field Marshal von Ludendorff was set free.

With the party dissolved and its leader in prison, the year 1924 was a dark one in National Socialist party history. But in the two Reichstag elections of that year, the Hitlerites formed a temporary arrangement with the so-called Racialists and were able to elect in this manner thirty-two members to the Reichstag in May and fourteen in the second election in December. These included Dr. Frick. Over the objections of the state prosecutor, Hitler was released from prison on December 20, 1924, and by the beginning of 1925, the other party prisoners were likewise freed.

c. *Mein Kampf.*

While Hitler was sojourning in Landsberg prison, he dictated to Rudolf Hess, his private secretary—now his Deputy Leader—the book which has become the bible of the whole movement,—*Mein Kampf*. This amazing autobiography, written when Hitler was only thirty-five years old, is useful in understanding its author and his checkered life, but its greatest contribution lies in its theory of propaganda. In this field Hitler has been a tremendous success. Without his keen appreciation of mass psychology, so well revealed in his autobiography, Germany would not have had these last stirring years under his leadership. Hitler's ideas about propaganda may well be quoted from his autobiography in these words which have been patched together: "It is not the task of propaganda to weigh the various rights but on the con-

trary to underline exclusively the new position predicated by such propaganda. Propaganda must be directed exclusively toward the mass. . . . The broad mass of the people do not consist only of diplomats and political scientists, but of human beings who like children falter from doubt and uncertainty. . . . For the intellectuals there is science and not propaganda. . . . Propaganda is not science although it is a weapon of the first rank. . . . The task of propaganda is not a scientific education of single individuals, but is to point out to the mass certain facts, processes and needs which thereby are brought within the realm of interest of the mass. The psychology of the broad masses is open to everything that is half-baked and weak. . . . The effect of propaganda must always be directed to the emotions and only to a limited extent to the so-called mind. . . . The greatness of every organization in its embodiment of an idea of this world lies in a religious fanaticism with which it insists on its right, intolerant of everything else. . . . Propaganda must be so directed as to be always understandable to the least intelligent member of the mass, and must be so often repeated until it becomes a part of his mind." [3]

A party leader with these ideas and methods, and directing a violent, fanatical movement, has naturally aroused deep feelings both of hatred and devotion. A proper evaluation of Hitler is therefore difficult to make.

One keen observer of *Der Führer* has written: "Hitler cannot write. He makes speeches. He does not think. He gropes about until his mind hits a well-worn word-path and slides into an oration. His so-called ideas are canned formulae that hide wishes. They merely decorate his totally subjective ego. What he does know—how to lead men and women by the nose—is a matter of instinct. His book was written to strengthen his own belief in his mission. In the Vienna days, he wanted to be an architect; during the war, an officer; during the wild years in Munich before the insurrection, the 'drummer' of awakening Germany who was only too pleased to march beside General Erich Ludendorff. In the fortress his ambition grew. When he left it was with the intention

[3] *Mein Kampf*, pp. 193-204, 107-111 edition, two vols. in one (Munich, 1934).

of becoming founder, organizer, oracle, leader and ultimate beneficiary of a movement that could, he felt, be grounded in human gullibility. 'The German,' he wrote naively in *My Struggle* (deleted from the twelfth edition, 1932) 'has not the slightest notion how a people must be misled if the adherence of the masses is sought.' "[4]

Another picture of Hitler was given on the occasion of his forty-sixth birthday by Dr. Joseph Goebbels, the clever Minister of Propaganda. "Like every genuine personality," said Dr. Goebbels, "the personality of Adolf Hitler is clear and simple in his life and work. This shows in things small and big. The simple clarity as expressed in his character as a statesman, is the guiding principle of his whole life. We cannot imagine him ever to pose. His people would not recognize him if he did. . . . All that which he is and does may be characterized by the motto of the great soldier Schlieffen: 'Be more than you appear to be.' In the pursuit of aims once conceived, he displays an industry and untiring persistence far beyond the normal degree of human strength. . . . The cabinet does not pass a single law he would not have studied in its every detail. . . . In tackling his problems he shows on the one hand the tenacity, on the other hand the elasticity required for choosing his methods. The *Führer* is anything but a dogmatist or stickler for principles. . . . His aims have never changed. But corresponding to the change of situations, he varied his methods in carrying out his aims. . . . That man is passionately devoted to his cause. He sacrificed to it his personal happiness and private life. There is nothing else in existence for him but the mission that inspires him and which he serves with an inward humility as the most faithful worker for the Reich."[5]

[4] Edgar Ansell Mowrer, *Germany Puts the Clock Back* (New York, 1933, p. 253. Chapters XIX and XX in this book give the best picture of Hitler which has been written. Other penetrating comments about Hitler can be found in Wickham Steed, *Hitler: Whence and Whither* (New York, 1934), especially Chapter III; in John Gunther, *Inside Europe* (New York, 1938), Chapter 1; and in Stephen H. Roberts, *The House that Hitler Built*, Chapter 1.

[5] Following the Austrian victory, Otto Dietrich, the National Press Chief, portrayed Hitler as a military genius. "This colossal accomplishment," he said, "is the work not only of a political but of a military genius. . . . He is the true soldierly leader of his people." *Nationalsozialistische Partei-Korrespondenz*, no. 90, April 17, 1938.

d. *Rebuilding of the Party.*

The time in prison and the writing of the autobiography was of great value to Adolf Hitler. Immediately upon his release, he began to rebuild the National Socialist party. On February 27, 1925, in the same hall where he had started the insurrection of 1923, he opened his campaign to awaken Germany. He was forbidden to speak in several German states, including Prussia, and not until 1928 were these bans removed. In the Reichstag elections of that year, the party cut no figure. But by 1930, following the onset of the depression, Hitler's legions achieved a startling success in the parliamentary elections by securing one hundred seven seats. Meanwhile the organization and leadership had been constantly improved, party congresses were held, a larger headquarters in Munich had been secured, and Dr. Frick, by virtue of National Socialist successes in the Thuringian state elections, had become the first National Socialist minister in Germany.

e. *Road to Victory.*

From 1930 to 1933 the party only knew success, except for the temporary set-back in the election of November 6, 1932. Election after election they increased their popular support, and thanks to the accuracy of the German proportional representation system, also their representation in legislative bodies. Although Hitler was unable to defeat President von Hindenburg for the Presidency in the two elections of 1932, he was able to attract to his standard millions of voters who had never before supported him. The stalemate in the Prussian legislature which was produced by National Socialist gains, resulted in a difficult situation which was soon taken advantage of by designing anti-republicans. Following the July elections to the Reichstag in 1932, the National Socialists for the first time became the first party in that body with two hundred thirty seats and elected their own Hermann Göring President of the Reichstag.

Never before had Germany seen such demonstrations, such speech-making, such intense political propaganda as the Na-

tional Socialists were directing. Huge sums of money were expended by the party in executing to the last detail the elaborate ideas of Hitler concerning mass appeals. Germany was aroused as she had never been aroused before by these daring, fanatical fighters belonging to the National Socialist party. Not only because of these successful mass appeals, but also because devious and subterranean influences were permitted to work, the party achieved its goal on January 30, 1933, when *Der Führer* became German Chancellor.[6]

Following the party's accession to power, events moved rapidly. By July all other political parties had either voluntarily disappeared or were officially dissolved. Germany was henceforth to be governed by one party, the National Socialist, and its sole leader was Adolf Hitler.

2. *The Political Philosophy of National Socialism.*

Like all German political parties, the National Socialist party has a *Weltanschauung* or philosophy of life which is intended to be the general pattern into which its political actions are to be fitted. But peculiar difficulties beset the path of anyone who tries to put into clear language some of the untranslatable if not inexplicable ideas which are supposed to underlie National Socialism. And yet such an attempt

[6] The story of the party's rise to power may be seen in the following figures of the party membership:

1919	7	1929		178,000	
1920	3,000	1930		389,000	
1921	6,000	1931		862,000	
1923	55,787	1932	(Jan.)	920,000	
1925	27,000	1932	(Dec.)	1,200,000	
1926	49,000	1933	(Jan.)	1,500,000	
1927	72,000	1933	(Apr.)	3,500,000	
1928	108,000	1938	(Jan.)	4,000,000	(estimated)

These figures are secured from a special number of the *Völkischer Beobachter* of March 23, 1932, from Hans Fabricius, *Geschichte der Nationalsozialistschen Bewegung* (Berlin, 1937), 2nd edition; and from Gottfried Neesse, *Die Nationalsozialistische Deutsche Arbeiterpartei* (Stuttgart, 1935). No figures of the present party membership can be secured from the party headquarters but it is clear that there has been an accretion to the membership, principally from the *Hitler Jugend*, since restrictive measures were taken in 1933.

must be made if for no other reason than to call attention to the oceans of ink which have been spilled in more or less learned discussion of the Hitlerian *Weltanschauung*. But, as Professor Roberts has stated in his recent penetrating study of the Hitler regime, "the truth is that it (the *Weltanschauung*) can be understood only as a kind of retrospective philosophical justification of Nazidom. It is well known that, with such a dynamic movement, the theory may follow rather than precede the events. Even today there is no clearly analysable doctrine behind the Third Reich. Hitlerism is still based on an aggressively patriotic emotion rather than a political philosophy." [7]

Nevertheless, National Socialism can be said to consist of several ideas which are so frequently used by Nazi leaders as the bases for their system that we must refer to them collectively as the National Socialist political philosophy.[8] First of all, anti-intellectualism has been a dominant note in the movement. "We think with our blood," say the Nazis. Thus emotion and fanaticism are given high place over calm thinking. Second, the New Germany considers world history to be a conflict between races. The white race produces all the culture and the Jewish race all the corruption. The German or Aryan virtues are the superior ones and their preservation is the greatest task of the regime. Contrariwise, everything which the Germans hate can be attributed to the Jews, and measures must be taken to prevent the spread of racial decomposition. In the third place, the word socialism as given in the party's name, has not meant Marxian socialism. In practice it has meant the destruction of Marxism and the trade unions, the development of economic nationalism, now called autarchy, and the extension of state and party services to workers, mothers, and young people. Fourth, the Nazi theory of the state is anti-democratic, with authority running from the top down, and responsibility from the bottom up. It is anti-parliamentary, is based on the inequality of men, and emphasizes the *Führerprinzip* or leadership principle, in which great power is concentrated in the hands of a new élite.

[7] Stephen H. Roberts, *The House that Hitler Built* (New York, 1938), p. 45.

[8] See *Source Book*, IV, pp. 157-202.

Finally, the idea of race is bound up inextricably in National Socialist political thought with the idea of the soil. *Blut und Boden*—blood and soil—the phrase emphasizes the importance of the peasant, of the *Heimat*, of nature, of contact with the soil. As Hitler stated it in his fourth anniversary speech on January 30, 1937: "Fundamentally our National Socialist program replaces the liberalistic conception of the individual and the Marxist conception of humanity at large, by the conception of a nation bound by breeding to a common soil. . . . For the first time, . . . this nation has been led to recognize that of all the tasks with which we are confronted, it is the grandest and thereby the most sacred task of man to preserve his kind as divined by God and propagated by breeding." This program also revives the age-old characteristics of the German people and refers back to pagan myths and pre-history. It is bitterly opposed to Communism.

National Socialism, then, is a creed of racial nationalism, in which a Nordic *Volk* triumphs over everything. Blood and soil produce supermen who together form a community in which the individual counts for nothing. Only as a member of the community does the individual have any meaning. The *Führer* is the mouthpiece of the *Volk* and he is responsible only to the nation and to God from whom he gets his inspiration.

All of the items in this Nazi ideology are old. But the pattern is new and it is dressed up in the most complete manner to dazzle the public. In fact the Nazi program is much more significant as a masterpiece of practical political psychology than it is as a system of political thought. The ideas are those of Gobineau, of Chamberlain, of Hegel, of Nietzsche, of Naumann—somewhat blended and modified to be sure. But their present expositor, although he has built his ideology on the contributions of others, has given to the ideas such vitality and force that we must give him the palm for practical achievement if not for original theorizing. The application of the Nazi *Weltanschauung* to concrete situations will be revealed in the remaining parts of the book.

3. The Organization of the National Socialist Party.[9]

The organization and work of this mighty movement, which now controls Germany, deserves careful study, for as will be pointed out, the organization of the party parallels that of the state and controls it and the primacy of the party is carefully secured. As Hitler remarked at the party congress of 1934: "The state does not command us, but rather we command the state." Nevertheless, the portentous fabric of the National Socialist party organization is not easy to portray. It is highly complicated in structure although very simple in its controlling features. The leadership principle, meaning absolute authority to the leader, was firmly established by Hitler early in the party's history, and today this principle gives whatever order and coordination there is to an otherwise highly confusing organization. The management of the various branches of the organization is in the hands of individuals who are responsible to their superiors and who are in authority over their subordinates. Reference at this point to the organization chart of the party will be of assistance in understanding the complicated system.

a. *The Party Cabinet.*

At the head of the party stands Adolf Hitler. He is *Der Führer* and no one else may have that title. He has both a party and a private chancellery through which all communication with the *Führer* must go. The Chief of this Chancellery is Philip Bouhler, who by virtue of his position is at once a private secretary for Hitler and a sort of business manager for the party. The Deputy Leader is Rudolf Hess, who for regular party affairs is the most important official in the entire organization. He has under his immediate direction an elaborate personal staff which includes supervisory officials who deal with all of the internal party functions. The Deputy Leader likewise has a liaison staff to provide a connecting link between the regular government of-

[9] The two most useful sources of information on this subject are *Nationalsozialistisches Jahrbuch, 1938,* and C. Haidn and L. Fischer, *Das Recht der NSDAP* (Munich, 1936), 3rd edition. An *Organisationshandbuch der NSDAP* contains much useful material.

ficials and the party. Also directly under the *Führer* is the Treasurer Franz Schwarz who is responsible for all of the business and financial affairs of the party. Under the *Führer* and his Deputy also come the *Reichsleiter*, nineteen in number, who together constitute the *Reichsleitung* or party cabinet. Each member of this body is a leader in the National Socialist movement and acts as the head of some one or more of the party's activities.[10]

b. *Member Organizations and Affiliated Groups.*

For purposes of organization, personal supervision and discipline the principal offices of the party are brought under the national organizer Dr. Ley, who is also the head of the Labor Front. One must further point out the distinction in the National Socialist party between member organizations (*Gliederungen*) and affiliated groups (*angeschlossene Verbände*).[11] The former are integral units of the party without separate legal existence, directed by a leader appointed by Hitler, a leader who in the case of the most important organizations is included in the party cabinet. At present there are seven of these member organizations, the most important being the Storm Troops (*SA* or *Sturmabteilung*), the Special Guards (*SS* or *Schutzstaffel*), and the Hitler Youth.[12]

The affiliated groups have a legal status separate from that of the party, and they include many persons who are not party members. The party treasurer, however, supervises their financial transactions and the heads of their groups are officers in the regular party organization. Thus they are adequately controlled by the party. Eight of these affiliated groups are now in existence, the most important one being the all-inclusive Labor Front.[13] A glance at the chart will show that some of these groups come under the headship of

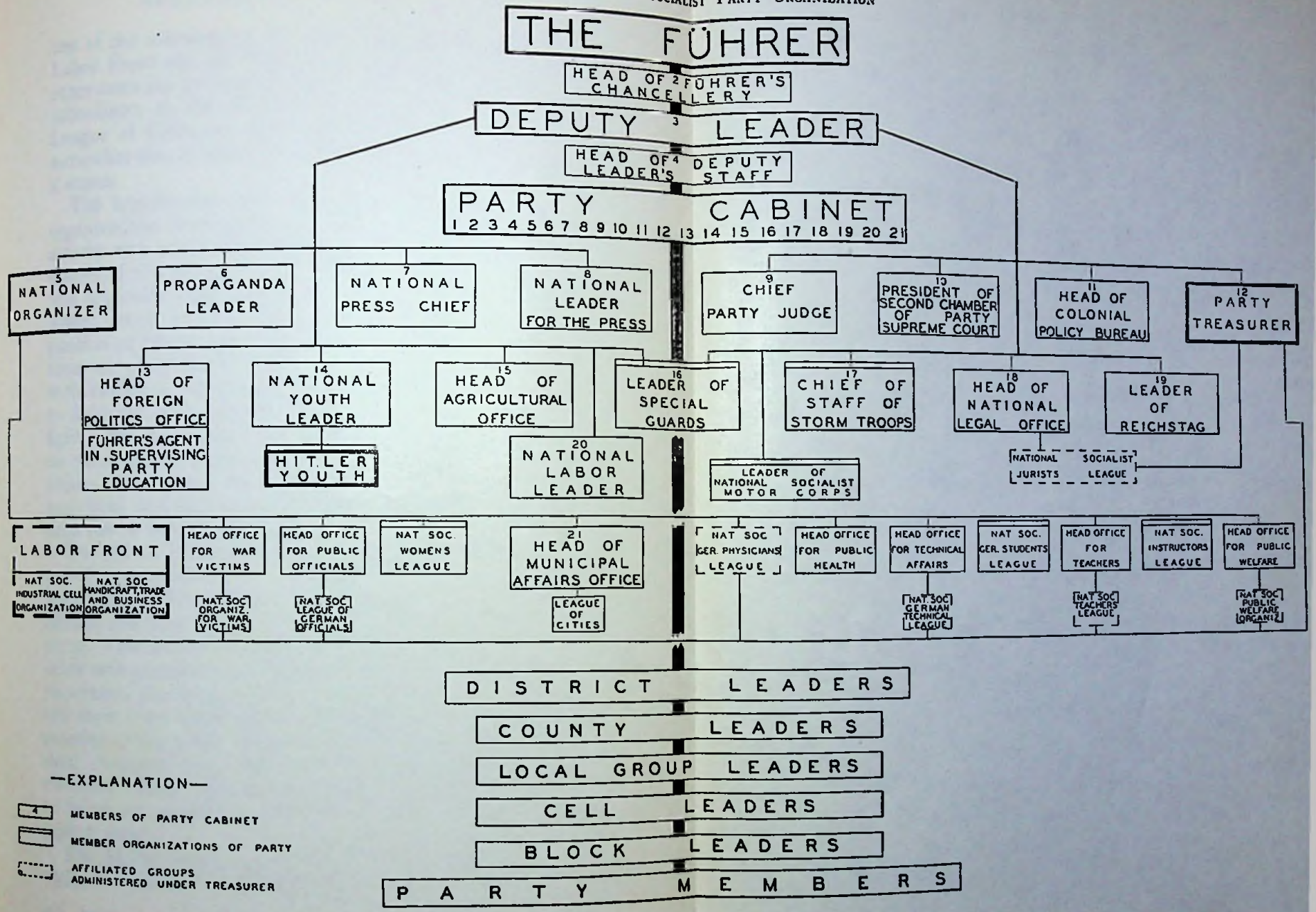
[10] The members of the party cabinet together with the government positions they hold are found in the table on page 65.

[11] See *Source Book*, IV, 68, for the decree establishing this classification.

[12] The others are the National Socialist Motor Corps, the National Socialist German Students' League, the National Socialist Women's League, and the National Socialist Instructor's League (*Dozentenbund*).

[13] The others are the National Socialist German Physician's League, the National Socialist Jurist's League (*Rechtswahrerbund*), the National Socialist Teacher's League, the National Socialist Public Welfare Organiza-

CHART OF NATIONAL SOCIALIST PARTY ORGANIZATION


THE FÜHRER
2 HEAD OF FÜHRER'S CHANCELLERY
3 DEPUTY LEADER
4 HEAD OF DEPUTY LEADER'S STAFF
PARTY CABINET
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21
5 NATIONAL ORGANIZER
6 PROPAGANDA LEADER
7 NATIONAL PRESS CHIEF
8 NATIONAL LEADER FOR THE PRESS
9 CHIEF PARTY JUDGE
10 PRESIDENT OF SECOND CHAMBER OF PARTY SUPREME COURT
11 HEAD OF COLONIAL POLICY BUREAU
12 PARTY TREASURER
13 HEAD OF FOREIGN POLITICS OFFICE
FÜHRER'S AGENT IN SUPERVISING PARTY EDUCATION
14 NATIONAL YOUTH LEADER
HITLER YOUTH
15 HEAD OF AGRICULTURAL OFFICE
16 LEADER OF SPECIAL GUARDS
17 CHIEF OF STAFF OF STORM TROOPS
18 HEAD OF NATIONAL LEGAL OFFICE
19 LEADER OF REICHSTAG
NATIONAL SOCIALIST JURISTS LEAGUE
20 NATIONAL LABOR LEADER
LEADER OF NATIONAL SOCIALIST MOTOR CORPS
LABOR FRONT
NAT SOC. INDUSTRIAL CELL ORGANIZATION
NAT SOC HANDICRAFT, TRADE AND BUSINESS ORGANIZATION
HEAD OFFICE FOR WAR VICTIMS
NAT SOC ORGANIZ. FOR WAR VICTIMS
HEAD OFFICE FOR PUBLIC OFFICIALS
NAT SOC LEAGUE OF GERMAN OFFICIALS
NAT SOC. WOMENS LEAGUE
21 HEAD OF MUNICIPAL AFFAIRS OFFICE
LEAGUE OF CITIES
NAT SOC GER. PHYSICIANS LEAGUE
HEAD OFFICE FOR PUBLIC HEALTH
HEAD OFFICE FOR TECHNICAL AFFAIRS
NAT SOC GERMAN TECHNICAL LEAGUE
NAT SOC. GER. STUDENTS LEAGUE
HEAD OFFICE FOR TEACHERS
NAT SOC TEACHERS LEAGUE
NAT SOC. INSTRUCTORS LEAGUE
HEAD OFFICE FOR PUBLIC WELFARE
NAT SOC PUBLIC WELFARE ORGANIZ.
DISTRICT LEADERS
COUNTY LEADERS
LOCAL GROUP LEADERS
CELL LEADERS
BLOCK LEADERS
PARTY MEMBERS
—EXPLANATION—
4 MEMBERS OF PARTY CABINET
MEMBER ORGANIZATIONS OF PARTY
AFFILIATED GROUPS ADMINISTERED UNDER TREASURER

one of the members of the party cabinet, as for instance the Labor Front and the National Socialist Jurist's League. In other cases the groups are attached to a party office which is subordinate to the National Organizer. In one case, the League of Cities, an organization which occupies a position somewhat akin to that of an affiliated group, is not given such a status.

The organization and work of several of these member organizations demonstrate the widespread network of party activity with which Germany is covered. The oldest and best known of this group is the Storm Troops. This party army was originally organized in 1921 and up to the time of the Röhm revolt in 1934 was so important as to threaten the position of Hitler and even at times to appear more effective than the party itself. Today it is a chastened organization with Hitler as commander-in-chief. It is no longer needed to fight the party battles for there are no other parties to fight. But it continues to function as a demonstration force on party occasions and to cooperate in carrying out party activities. Patterned after the army and divided territorially into local military organizations, it contains at the present time not to exceed three quarters of a million men.

The *SS* or Special Guards constitute the most powerful protective weapon of the National Socialist regime. They are equipped with weapons, some of them are trained by army officers, and their functions are of vast importance to the Nazi party. One section administers the concentration camps. Another unit provides a special bodyguard for Hitler, and more important, the leader of the *SS*, Heinrich Himmler, is at the same time Chief of the German Police. He is also a member of the party cabinet. With approximately two hundred thousand men under his command, Herr Himmler furnishes Hitler with a competent, disciplined force ready to ferret out conspiracies against the regime and to protect it against attack.

The Hitler Youth expanded by the law of December 1, 1936, to include "the entire German youth within the terri-

tion, the National Socialist Organization for War Victims, the National Socialist League of German Officials, and the National Socialist German Technical League.

tory of the Reich," [14] has now become probably the most important unit in the party. With six million members comprising boys and girls from ten years upwards, and with its leader holding membership not only in the party cabinet but also having a state office directly under the *Führer*, the Hitler Youth is a potential force of great power. It now constitutes the only avenue of entrance into the party, and under the all-inclusive program of education, which it conducts among its members, it is safe to say that the future of Germany is being molded in its hands. Special attention has been given by Hitler to this organization because he conceives it to be all-important for the future of the National Socialist party.

The Labor Front created in 1935 on its present basis, although one of the affiliated organizations of the party, is closely bound up with the party organization, as well as fitted into the structure of the state.[15] Its leader is the national organizer of the party, and it assumes an important place in the party congresses each year. Its manifold activities among its twenty million members have a very important bearing upon all the work of the party. It has been called the "nerve center of the Nazi state," [16] but only its connection with the party can be pointed out at this time. Its work as an agency of the state will be treated later.

The members of the party cabinet working under the Deputy Leader direct the multitudinous work performed by the National Socialist party. Each section of the party work is extensively subdivided into bureaus which cover every conceivable phase of possible party activity. The propaganda section under Dr. Goebbels, for instance, has nine constituent officers which deal with radio, films, and all other propaganda instruments. Another interesting department under Alfred Rosenberg, one of the close friends of Hitler, is charged with the responsibility for the spiritual and philosophical development of the whole movement. The size of the personnel en-

[14] RGB, I, 1936, p. 993. See Henri Lichtenberger, *The Third Reich* (New York, 1937), pp. 166-170, and p. 316 for the English text of the youth law.

[15] See *Source Book*, IV, 97-99.

[16] See the excellent study by Taylor Cole in *Political Science Quarterly*, vol. 52, pp. 532-558.

gaged in purely party activity is enormous, mounting to the thousands. These party employees are paid and devote their full time to the National Socialist party. There are hundreds of others holding official positions in the state who are available for party service whenever needed.

As conflicts have occurred within the dominant party groups, the party structure has been altered. In its development, therefore, as in its original form, the party organization has been built around persons "who deserve well of the party." Its basis being partly personal, and one of its aims being to employ as many of the party faithful as possible, it is natural to find that its structural pattern is somewhat confusing and illogical. But even though its organization does consist of three different kinds of units, namely, offices, member organizations and affiliated groups, and even though one is not always certain just where to fit in a certain party activity, there is never any question as to the ultimate authority, and every conceivable kind of party work is done somewhere by somebody. When jurisdictional difficulties occur, or intra-party conflicts arise, the Deputy Leader or the *Führer*, himself, will make the necessary adjustments. Röhm and the *SA* with him, went down in importance in 1934. Hierl, the National Labor Leader, came up in 1937. Such shifts make for party peace, and permit different emphases at different times even though they do not make for organizational unity. With the Nazi party, however, unlike the Nazi state, duplication does not matter and is not a great fault. Doing the same job twice is better for the party than not doing it at all.

c. *The Territorial Organization.*

The functional organization of the party is supplemented by a territorial organization which goes down to the smallest unit in the party. For party purposes, perhaps also later for government purposes, the country is divided into thirty-two *Gaue* or districts.[17] Each of these districts is headed by a *Gauleiter* or District Leader appointed directly by Hitler and

[17] Austria is to be divided into seven party districts which will be in addition to these thirty-two.

responsible to him for all party matters in the district. The district in turn is divided into *Kreise* or counties, in each of which there is a *Kreisleiter* or county leader who is nominated by the district leader and appointed by the *Führer*. The *Kreis* is the lowest unit of the party which is vested with all the administrative sections of party work similar to the districts and the central officers. The counties in turn are sub-divided into *Ortsgruppe* (*Stützpünkte*) or local groups which are headed by *Leiter* appointed by the district leader on proposal of the county leaders. The local groups may be further broken up into *Zellen* or cells and *Blöcke* or blocks, consisting of about fifty party members living in the same neighborhood or in the same block of houses.

Each party official is responsible to the official next above him, and has complete authority over those below him. All phases of the party work are coordinated at the various levels by the local leaders. In case of conflict between central administrative bureaus and the local political leaders, appeal must be had to the Deputy Leader. In practice, the District Leaders representing the political side, wield a great influence in the party organization, and party administrative officials within their districts are careful to avoid conflicts with the district leadership.

The local organization of the party is in a constant state of flux. As membership fluctuates, new local groups are formed. Personnel changes among leaders occur frequently and new administrative activities are occasionally launched. At present the four million party members are grouped into about fifteen thousand local groups.

d. *The Party Courts.*

In addition to the political and administrative structure of the party, we also find a system of party courts which are subject to the *Führer* alone.[18] The highest party court is in Munich, and there are local courts for the districts and coun-

[18] See C. Haidn and L. Fischer, *Das Recht der NSDAP* (Munich, 1936), 3rd edition, pp. 695-742, for a treatment of all phases of this type of party activity. On April 27, 1938 the *Führer* granted amnesty to all persons who were awaiting trial for party offenses less than expulsion.

ties and for some of the larger local groups. The Chief Party Judge, the much-feared Major Buch, is a member of the party cabinet, and as Chief Judge appoints the lower court judges. In all levels of the party court system the leadership principle prevails and the decisions are made by the chief judge in each case. Party courts are used to settle disputes between party members, to protect the party honor and to protect its code. They do not displace but rather supplement the regular state courts. Their decisions may result in warning or expelling a party member, and in this way tend to strengthen the discipline within the party organization.

The party court system is an outgrowth of the investigating and dispute-adjusting committee known generally as the *Uschla*. The secret-service work of this committee is now performed under the Chief Party Judge and is intended to prevent discord within the party. Party members are constantly being checked and double-checked to be sure that they are loyal both in thought and deed. The "Cell," as the Nazis call this punitive organization, is a definite feature of National Socialist party organization and plays for the party a role similar to that performed for the whole people by the regular political police.

e. *Party Headquarters.*

The thoroughness and comprehensiveness of party activity can be realized in part by scanning through some fifty-odd pages of the party Yearbook devoted to an enumeration of the various party offices. A better impression of the party's power and all-inclusiveness can be gained by visiting the extensive and elaborate party headquarters which have been built up in Munich, *die Hauptstadt der Bewegung*, as the city has come to be called. In this former capital of the Bavarian kingdom, one finds not merely the now famous Brown House, but also many other large buildings occupied by various units of the party organization.

The *Königsplatz* in Munich has been altered and expanded, first, to constitute a magnificent esplanade in front of the two tombs of fallen National Socialist heroes, and, second, to make a splendid setting for two large and commodious party buildings, one the so-called *Führerbau* and the

other the *Verwaltungsbau*.[19] In the former building are the offices of the *Führer* and Deputy Leader, an auditorium capable of seating seven hundred persons, as well as numerous offices occupied by staff members of the Deputy Leader. In the *Verwaltungsbau* or Administration Building the party treasurer has his numerous offices, and in the basement there is a large dining hall. The Brown House is today of great ceremonial importance but contains only a few offices for the principal officials. Hitler still maintains his private office in this building with its pictures of Frederick the Great and its bust of Mussolini. The imposing Hall of Senators, used as an assembly room for the important leaders of the party, is also in the Brown House. In adjoining buildings are located the various bureaus of the party together with complete business equipment, a postal station, an extensive telephone exchange, an up-to-date heating plant for the buildings, and three residences used for living quarters.

In other areas of Munich the party owns additional buildings which are occupied by the highest party court, by the national party organizer, in whose building are found the central archives of the party, by the leadership of the *SA*, and *SS*, and various other party units. Altogether some twenty-five different buildings, ranging in size from the *Führerbau*, which is eighty-five meters long and twenty-three meters high, to private residences, are devoted to the central party work in Munich.

In Berlin the party also occupies numerous buildings, including the one used for its principal Berlin headquarters directly next to the Chancellor's office. The Hitler Youth and the Labor Front are centered in Berlin, and have extensive headquarters there. All in all, the National Socialist party has the most complete and elaborate organization of any political party in the world. Its activities are better housed, its staffs are better equipped, and its financial support is more adequate than any other political party. The aston-

[19] The square has been paved with large granite blocks, and the roofs of the buildings are equipped with loud-speaking equipment. Important party demonstrations are held here, especially on November 9, the day which commemorates the death of Hitler's supporters in the uprising of 1923. See *Das Braune Haus* by Adolf Dresler, 2nd revised edition (Munich, 1937).

ishing results which have been achieved by this party in capturing the government and remaking the whole life of the German people can only be understood in terms of the capacity and organization ability of the National Socialist party.

f. *The Party Congress.*

The *Reichsparteitag* or party congress, which is held each year in the month of September at Nürnberg, gives outward evidence of the strength, activity and organization of the party.[20] Prior to 1933 four congresses had been held and they were important party affairs. But since the National Socialist party has taken over the government of Germany, the party congress has become even more important, having been referred to by the *Führer* at the last congress of 1937 as "the great community festival of the nation."

A special statutory authority has been set up in Nürnberg to handle these vast party gatherings and to provide the necessary facilities for handling the vast crowds and the numerous events. Extensive alterations are being made in Nürnberg. The already elaborate layout, which includes the great Zeppelin field and the Luitpold arena, is being enlarged to include an enormous congress hall, a smaller hall of culture, and a stadium which will seat four hundred thousand people. The work on these structures is to be completed by 1943, which will be the tenth anniversary of the accession of the party to power.

The party leadership has come to use the congress for announcing new policies, and has made it "the annual retrospective and introspective interlude of the whole German nation." The great demonstrations and the speeches by Hitler and the lesser party leaders are intended to generate the necessary enthusiasm for National Socialist objectives with which the party members are to infect the whole nation. National Socialist Germany is really introduced anew to the world in its yearly congress. At no time or place are the

[20] *Gautage* or district congresses and *Kreistage* or county congresses of the party are also held. Complete accounts of the party congresses are carried in the *Völkischer Beobachter* and in the *Nationalsozialistische Partei-Korrespondenz.* For the official report of the last congress see *Parteitag der Arbeit* (Munich, 1938).

National Socialists so complete and perfect in the detailed staging of pageants and events well-calculated to move the hearts and emotions of all the party members. To say that these congresses are impressive is to be trite, for in truth they consist of such overpowering and awe-inspiring ceremonies that even the most robust doubter of Nazi power and ability is quite overcome with admiration. From the time of the arrival of the *Führer* in Nürnberg amid the ringing of bells, through the reading of his proclamation and the making of his numerous speeches, the visitors to Nürnberg are treated to an experience which they will probably never forget. The expert marshalling of forces involved in these great congresses as well as the superb showmanship and the genius for mass effect demonstrated during the sessions, show very clearly why the National Socialists have been so successful in leading the German people.

The congress of 1933 was called the "congress of victory." In 1934 it was called "the congress of the united nation," and was devoted to a review of the past and to announcing plans for the future. The congress of 1935 was called "the congress of freedom," that of 1936 "the congress of honor," and the latest one in 1937 "the rally of work." In 1935 Hitler summoned the Reichstag to meet at Nürnberg at the time of the congress, and the racial laws against the Jews were enacted. In 1936 the "Four Year Plan" was announced. In 1937 the "Four Year Plan" was again emphasized. At every congress Hitler is the chief actor, and in his numerous speeches gives emphasis to those phases of policy and program which will be taken up throughout Germany and echo in every village and hamlet. An incredible number of people participate in the party congress, and it gives an observer an opportunity of comprehending some of the forces behind the movement, as well as noting the superb organization ability, the impressive ceremonial, and showmanship of the National Socialists.

Thus we see that the huge organism known as the National Socialist party rivals in complexity and completeness the structure of the German state. As Professor Löwenstein has remarked in a happy sentence: "Perhaps never before has the German genius of organization scored a higher tri-

umph."[21] The whole involved organization is pulled together (a) by means of functional and territorial leaders, (b) through the work of the national organizer, (*c*) through an extensive fiscal organization under the party treasurer, (d) by means of a party court system which contains a secret service department as well as judgment-giving disciplinary courts, but finally and pre-eminently (e) through the Deputy Leader and the *Führer*. The latter necessarily has delegated more and more authority to the Deputy Leader, and he, Rudolf Hess, has therefore become the acting head of the party organization. Nevertheless all power is concentrated in the hands of the *Führer* and he has complete control over all the units of the party. As Hitler has said: "The *Führer* is the party." It is he who may command the thousands of full-time and part-time party officials, and it is to him that each one of them takes a personal oath to be true and loyal unto death.

Some of the powerful party leaders are not heard of as much as certain cabinet members, but within the party machine they exercise great power and even control some of the government leaders of whom we read so much. A small number of men, occupying key party posts, are, under Hitler's leadership, effectively controlling the German government. In any list of these key personages in the party would be included Hess, Bouhler, Ley, Buch, Himmler, and Goebbels. The importance of Göring is based on factors other than those of party. The internal structure of the party, as we shall see, has provided a model for the building of the National Socialist government.

A keen, well-balanced French observer has summarized the party's all-pervasiveness, and its control over its members from youth to old age, in the following striking paragraph: "First there are the youth organizations; the *Deutsches Jungvolk* which includes children from ten to thirteen years and the *Hitler Jugend*, in which are enrolled adolescents from fourteen years up. After the age of eighteen, the young Nazi goes from these youth organizations into the National Socialist Party and eventually into the *SA*, i.e., the *Sturm Abteilung* which consists of those who voluntarily engage as

[21] *The University of Chicago Law Review*, vol. 4, no. 4, p. 568.

militants in the 'protective sections' of the party. After their nineteenth year the young Nazis are called for six months into the labor camps, or *Arbeitsdienst*, where they are subject to manual labor and to camp discipline. Having gone through this compulsory stage, they go to the *Reichswehr*, where they serve their two years of military service, which is now compulsory for all. After this they return to the party and continue to serve either under the brown shirt of the *SA*, or the black uniform of the *SS*, i.e., *Schutz Staffel*. The Nazi thus finds himself regimented during his whole life. At every age of his life he marches before his *Führer* in one uniform or another, at the party congress, in the various drives which are constantly being organized or in the incessant parades which the leaders use for the purpose of making perceptible to all party members the collective life of which they form an integral part." [22]

4. The Union of Party and State.

By virtue of the law dissolving and prohibiting other political parties, the National Socialist party became the only party in the German state.[23] Subsequently another act was passed which legally established the monopoly of the party.[24] This important law, one of the basic enactments of the National Socialist regime, was entitled "law for safeguarding the unity of party and state." It declared the party to be a corporation of public law, and made it incumbent upon public authorities to give assistance to party officials in performing their duties. Perhaps most important of all it made the Deputy Leader an ex-officio member of the German cabinet, and declared that the party's constitution was to be determined by the *Führer*. Later enactments have given special protection to the party, its leaders, its uniforms, and its property (which is tax free).

The most effective method of securing the primacy of the party within the Reich has been the linking together of party and state offices. From the chancellorship down to the mayoralty of cities, we find National Socialist officials occupying political and administrative posts. At the top of the struc-

[22] Henri Lichtenberger, *The Third Reich*, p. 166.
[23] *Source Book*, IV, 66.
[24] *Ibid.*, IV, 67-79. For a good treatment of this topic see a recent article by Gottfried Neesse in *Verwaltungsarchiv*, vol. 43, pp. 1-47 (1938).

ture, Hitler is at the same time *Führer* of the party and *Führer* and National Chancellor of the Reich. The Deputy Leader of the party is ex-officio a member of the cabinet, and all important appointments to state offices must go through his hands. The members of the party cabinet all hold membership in the Reichstag, and with the exception of five of them, also hold other public positions of some importance. The following table makes this point clear.

TABLE SHOWING THE MEMBERS OF THE PARTY CABINET WITH THEIR RESPECTIVE PARTY AND GOVERNMENT POSITIONS

Party Position	*Name*	*Government Position*
Führer of the *NSDAP*	Hitler	*Führer* and National Chancellor
Deputy Leader	Hess	Minister without Portfolio
National Leader for the Press	Amann	President of the National Press Chamber
Head of the Deputy Leader's Staff	Bormann	Head of the Deputy Leader's Staff
Head of the Führer's Chancellery	Bouhler	Reichstag Deputy
Chief Party Judge	Buch	Reichstag Deputy
Head of the Agricultural Office	Darré	Minister of Agriculture
National Press Chief	Dietrich	Vice-President of the National Press Chamber
Head of the Colonial Policy Bureau	von Epp	National Governor for Bavaria
Head of the Office for Municipal Affairs	Fiehler	Mayor of Munich
Head of the National Legal Office	Frank	Minister without Portfolio
Leader of the Reichstag	Frick	Minister of the Interior
National Propaganda Leader	Goebbels	Minister of Propaganda
President of the Second Chamber of the Party Supreme Court	Grimm	Reichstag Deputy
National Labor Leader	Hierl	National Labor Leader
Head of the *SS*	Himmler	Chief of the German Police
National Organizer	Ley	Leader of the German Labor Front
Chief of Staff of the *SA*	Lutze	Chief President of the Province of Hannover
Head of the Foreign Politics Office	Rosenberg	Reichstag Deputy
National Youth Leader	von Schirach	National Youth Leader
Party Treasurer	Schwarz	Reichstag Deputy

As a rule the National Governors are the District Leaders of the party. In Prussia the Provincial Governors are likewise District Leaders of the party. A rather striking union of party and state offices occurs in the office of National Youth Leader. In the law creating this office these words occur: "The task of training the entire German youth in the Hitler Youth is assigned to the National Youth Leader of the *NSDAP.* He is thereby Youth Leader of the German Reich." [25] A very significant combination occurs in making the party leader of the *SS* at the same time Chief of the German Police.[26]

Another interesting recent union was brought about by creating in the Foreign Office a new division to deal with Germans abroad, and by placing the head of the party division by the same name at the head of the new Foreign Office division.[27] The Leader of the National Labor Service, members of the Prussian Council of State, and the National Peasant Leader, are at the same time holders of important party posts. A personal union between party and state offices could be pointed out in many other posts throughout the Reich.

One other instance of liaison between party and state is seen in the new municipal code. This act created the post of party agent in each municipality, the holder of which is associated with the local government in a supervisory and cooperative capacity.[28] As will be pointed out later, a party agent is empowered to nominate candidates for mayor, to appoint municipal councillors, to approve the city charter and the granting of honorary titles by the municipality.

From the top to the bottom of the administrative machine, the National Socialists, therefore, have placed their leaders in key positions. From the party point of view this assures loyalty to party ideals and uniformity in carrying out party policies. From the point of actual public administration, however, we are not yet sure that friction is avoided, and diver-

[25] RGB, I, 1936, p. 993
[26] *Ibid.*, I, 1936, p. 487.
[27] *Ibid.*, I, 1937, p. 187.
[28] Hitler has made himself party agent for Munich, and Dr. Goebbels, who is at the same time the Minister of Propaganda and the party District Leader in Berlin, is the party agent for Berlin.

gencies in administration prevented. A complete identification of party and state, in other words, has not been achieved, and in fact is not intended. Collaboration of the two has been secured but all state activities have not been taken over by the party, even though the party clearly affects all of these activities. Contrariwise, the party organization remains distinct from that of the state. In other words, party and state are one but not the same. In contrast to Italy, the party in Germany exists beside the state as a second sovereign organization.

The relationship between the party and the state was well defined by Hitler in his concluding speech before the party congress of 1935. "The National Socialist idea," said the *Führer*, "is located organically in the party. The party represents the political concept, the political conscience, and the political will. The party consequently has the historical mission to fulfill of creating within its organization the possibility of stabilizing the leadership in the state through the selection, development and transfer of this leadership. It must therefore espouse the principle that all Germans are to be educated in the National Socialist *Weltanschauung*, and that further the best National Socialists are to become party comrades, and that finally the best party comrades are to take over the leadership of the state.

"The party must, out of its organization, give to the future German state the highest and the universal leadership, and in the second place through its power of instruction to educate for the National Socialist state the National Socialist people which supports its. Hence it follows that there is a clear fixation of the proper spheres of party and state. It is the duty of the state to continue the historically developed and evolved administration of state agencies within the provisions of and by means of the laws.

"It is the duty of the party:

1. To erect an inner organization which will be a stable, continuing, self-perpetuating and eternal cell of National Socialist doctrine
2. The education of the entire people in the full significance of this idea

3. The transfer of the educated ones to the state for its leadership and its followership. For the rest the principle of respect and observance of the competencies of both sides applies. That is the goal."

Finally, in addition to the union of party and state just described, it should be pointed out that the party has been given a public law position with legal protections and privileges similar to those enjoyed by the state. The party, similar to the state, is protected by provisions of the penal code, and its leaders, symbols and political functions are safeguarded. Nevertheless, although the party is called "a corporation of public law," it is clear that the state has no supervisory power over it.

The National Socialist party clearly is not a party in the ordinary sense of the word. It is not a skeleton organization which comes to life when elections roll around. It is rather a tremendous social organization, constantly at work to propagate and keep alive the National Socialist ideology. It educates and develops new leaders. It conducts a big business. It looks out for the welfare of all of its comrades and permeates into every phase of human activity. No one can escape its all-embracing organization. Under an iron discipline and complete responsibility to the *Führer*, National Socialism has become "certainly the most thoroughgoing organization of social life, the most omnipotent leviathan, in Hobbes' phrase, known in modern history." [29] As the functioning of German government is described, it will be seen more clearly that the National Socialist party really *is* Germany.

[29] Karl Löwenstein in *The University of Chicago Law Review*, vol. 4, no. 4, p. 574.

CHAPTER IV

THE POLITICAL STRUCTURE OF THE THIRD REICH

The National Socialist party, as we have seen, is considered to be the source of strength as well as the motive power of the German people and the German state. The state in turn is the outward form of organization, the apparatus so to speak, which gives effect to National Socialist ideas. Just as Hitler is the *Führer* of his party, so is he in the governmental sense, the *Führer* and National Chancellor, the supreme head of the state.

The state, over which the *Führer* presides, is described by Nazi writers as a *Völkischer Führerstaat*, or popular leader state.[1] It is thus not a monarchy, nor a democratic republic but a form of state in which the will of the people is exercised by the *Führer*. The Enabling Act of 1933 was the legal document by means of which power was transferred from the Reichstag to the cabinet, and as we shall see in practice, finally to the *Führer* and National Chancellor. But in National Socialist theory, it is not merely in basic statutes that we are able to understand the idea of the "popular leader state." We are also supposed to appreciate that the idea consists in part of an overwhelming popular confidence in the leader who exercises state power in behalf of the people and with complete responsibility. The leadership principle is partly a matter of the spirit, therefore, and not merely a matter of legal or constitutional structure. When reliance cannot be placed on a statute, in other words, recourse may be had to the "spirit of National Socialism."

[1] See Dr. Wilhelm Stuckart "Nationalsozialismus und Staatsrecht" in *Die Verwaltungs-Akademie*, vol. 1, no. 14, and Prof. Otto Koellreutter on "Der Nationalsozialstische Rechtsstaat," *ibid.*, no. 15, and "Der Aufbau des Deutschen Führerstaates," *ibid.*, no. 19.

1. The German Constitution.

This convenient idea fits in well with a dictatorial system, and enables the government leaders to adjust governmental structure to changing political conditions. It renders the formulation of a definitive constitution quite unnecessary. We are consequently dealing with a regime whose legal basis is found not in a great constitutional charter like the Weimar constitution of republican days, but in a series of basic laws and in the party program. The Weimar constitution has not been formally repealed, and a few of its sections have been applied by the courts in recent years. But it is now subject to amendment at any time and has been in spirit as well as in fact almost completely superseded.

The basic acts which constitute the foundation of the National Socialist state are twelve in number: (1) the enabling act; (2) the law concerning referenda; (3) the law for safeguarding the unity of party and state; (4) the law for the new structure of the Reich; (5) the law concerning the head of the German Reich; (6) the law relating to national governors; (7) the German municipal code; (8) the law for national defense; (9) the Nürnberg laws, three in number dealing with the flag, citizenship, and blood; and (10) the civil service act.[2] Taken together they have given Germany a unitary, centralized, monocratic, one-party state in place of the federal, parliamentary, democratic, multi-party state which preceded it. In the place of majority rule and parliamentary deliberation has been substituted a dictatorship operating under the leadership principle. The principle of the separation of powers has been superseded by a unity of command and a concentration of authority in the hands of the *Führer*. Germany's long continued territorial divisions have been coalesced into a highly centralized and unitary state. And the divergent streams of German cultural and social life have been brought together under one totalitarian regime.[3]

[2] See *Source Book*, IV, for the texts of all of these acts except the civil service act, which is referred to later.

[3] See Karl Löwenstein, "Dictatorship and the German Constitution: 1933-1937," in *The University of Chicago Law Review*, vol. 4, pp. 537-574 (June, 1937), for an excellent review of German constitutional developments under Hitler. Also *Jahrbuch des öff. Rechts*, vol. 24, pp. 3-163.

2. The Position of the Führer.

In this new German form of government, all expressions of state power have their source in the *Führer* and National Chancellor. As Professor Carl Schmitt has stated it: "Law is no longer an objective norm but a spontaneous emanation of the *Führer's* will." As *Führer* and National Chancellor, Hitler possesses greater powers than have ever before been vested in a German ruler. He is at the same time the highest legislator, the highest judge, and the head of the administration. He commands the party, the state, and the army. He is the head of the state in the international sense, and in his name cabinet ministers, national governors, officials, and officers are appointed and dismissed. All officials and soldiers must swear a personal oath of loyalty to the *Führer*. He has the power of pardon as well as the power of dissolving the Reichstag, and he is now exercising direct command over the entire armed establishment. The exercise of some of these powers he delegates to lower authorities and he is authorized to appoint a deputy for all state purposes. But to date, he has not made use of this last-named power, and Rudolf Hess, his deputy in party matters, is not his deputy in state affairs. The *Führer* exercises the powers of a national governor in Prussia, and also reserves to himself the powers of party representative in the city of Munich. The Minister of the Interior, Dr. Frick, has summarized the *Führer's* position in these words: "All powers of government are concentrated in his person, while he himself is responsible only to the nation."

A presidential chancellery to handle those affairs which naturally come to the head of a state, and a national chancellery to handle the domestic administrative flow of work exist to assist the *Führer* in the transaction of the various duties incumbent upon him. These offices are located in Berlin but recently they have been supplemented by an office which has been constructed in Berchtesgaden where Hitler has a mountain chalet and where he now spends a considerable part of his time. *Wherever Hitler is, there is the power!* Directly under the Chancellor are a number of offices such as the national youth leader, the inspector general of German high-

ways, the commissioner for the execution of the four year plan (Göring), the national planning office, and the inspector general for Berlin. Surrounding the *Führer*, in a word, is a sort of private government which is the top administrative machinery of the Reich.

The importance of Hitler's position and the execution of his powers can best be understood by pointing out his connection with the cabinet and the administrative staffs, with the Reichstag, with the courts, with the army, and with the people. We have studied him as head of the party and as head of the state. Let us now explain his relationship with various agencies of government.

3. *The Cabinet and the Department Heads.*

In republican days in Germany, as in Britain and France today, the cabinet had genuine importance. The members were individually and collectively responsible to the representatives of the people in the Reichstag, and they were, subject to joint cabinet action, supreme in their respective administrative jurisdictions. The Chancellor was the head of the cabinet, but he could not himself determine policy. Since 1933, however, the situation has been different. Without any legal provision, the members of the cabinet are now merely advisers to the *Führer*.[4] They are responsible to him alone and they no longer possess an independent position with reference to their departmental functions.

The cabinet as a body is the highest state advisory council, but its meetings are not closed to other officials who are not ministers. That is to say, a number of secretaries of state are frequently in attendance at cabinet meetings and various other subordinate officials, such as the chief of the German police, the national labor leader, and the chief of the foreign office bureau dealing with Germans abroad, sit with the cabinet when their jurisdictions are affected.

Since the order of the *Führer* of July 27, 1934, the Deputy Leader, Rudolf Hess, is given an important place in dealing with the legislative and administrative matters with which the

[4] See Kurt Krüger, "Die Stellung der Reichsminister," in *Deutsches Recht*, vol. 7, pp. 311-314 (August 15, 1937).

cabinet, under the Enabling Act of 1933 and the Law for the New Structure of the Reich, is vested. In the preparation of all legislative proposals he is to be consulted. This power even extends to the explanatory and supplementary orders which are issued to carry out general policies. Many decrees and ordinances may be issued only after he has agreed to them. When purely party matters are concerned, the Deputy Leader is not bound to consult with other ministers. In these cases he may on his own authority draft the proposals and bring them into cabinet meetings. The Deputy Leader, therefore, is not really a minister without portfolio, although he is called just that. He has very definite and important functions to perform in the sphere of state business as well as in party affairs. The wide powers of appointment delegated to him by Hitler give him added state importance.

The cabinet only advises in legislative matters. Law-making is not by cabinet decision but by the *Führer*. The counter-signature of ministers still obtains but it has a different meaning than formerly. (The word *Mitzeichnung* is now used). When a statute says that "the cabinet has decided on the following law," it means that Hitler after discussion with his advisers in the cabinet has decided on the law. In other words, the *Führer* alone has the power and the responsibility for the measures taken by the Third Reich.

In cabinet business it usually suffices if the Minister of the Interior and the Minister of Finance approve of a proposal made by some other minister, *and if* the Deputy Leader and the Chief of the National Chancellery within a definite period do not raise any objection. The making of statutes has been greatly simplified, the ordinary procedure being to secure the approval of the Deputy Leader to a proposal and then have the Chief of the National Chancellery circulate copies of the draft with accompanying papers among the other ministers for study and signature. If the proposal is important, it may then be laid before the *Führer* or a cabinet sitting may in rare cases be held. In some instances only the Ministers of Interior and Finance, in addition to the Deputy Leader and the Chief of the National Chancellery, see the proposal. The flow of business between the Chancellor and the various ministers takes place through the office of the Chief of the National

Chancellery. This important official (Lammers at present) keeps the *Führer* informed of the course of state business and when necessary also makes the preparations for cabinet sittings. Votes are of course not taken in cabinet meetings. *The Führer decides.*

In administrative matters, the individual ministers are probably more important than ever before. They are the heads of their respective departmental organizations, and although the *Führer* may at any time issue orders applicable to any part of the administration, and may require any question to be submitted to him for decision, in practice they have considerable independence and wide discretion is given to them. Similarly, the position in a department of the secretary of state, an official who corresponds to the permanent undersecretary in British administration, has been strengthened by giving him the power to sign orders and decrees when the department head is prevented from acting.

The number of ministries is not permanently fixed. The *Führer* has the power of creating or consolidating ministries. At present there are eighteen officials with the title of cabinet minister, four of them without portfolio, Hess, Frank, Schacht and Lammers. Since the Law for the New Structure of the Reich of 1934, the Prussian ministries with the one exception of finance, have been combined with the corresponding national ministries. The Prussian Finance Minister nevertheless belongs to the national cabinet. The Minister of Justice has a special position inasmuch as he has taken over all of the former state ministries of justice.

In the new civil service act, the legal position and relationships of the national ministers have been regulated. They must take an oath of office *before* the *Führer;* they may not perform any duties other than those of their respective offices; they are relieved of serving as jurors or lay judges or honorary officials; and upon retirement or dismissal, they receive generous life pensions or transitional salaries, depending upon their terms of service. Ministers also receive the special protection of the law.

4. Laws and Decrees.

Since law is now the political command of the *Führer* and normally issues in the form of cabinet acts—except in those rare cases later to be discussed, when the Reichstag is called upon to pass on proposals—it is important to note (1) that the former distinction between constitutional law and statutory law is no longer of any value; and (2) that government laws only state the policy in broadest outline, leaving to decrees and ordinances the detailed application of the laws. Under the act of 1934 the government of the Reich is empowered "to enact new constitutional law." This they do in precisely the same way in which they enact an ordinary statute. The amending process, in other words, is identical with ordinary law-making.

Similarly the former distinction between statutory law and executory ordinance seems to be completely obliterated. Also the different kinds of executory ordinances and supplementary orders are no longer to be distinguished. But most important of all, one now finds sweeping delegations of power being made to individual ministers in words like these: "The competent minister is empowered to issue necessary executory and supplementary rules and orders." Under such authority, and especially because there is no longer any real judicial review of these matters, there can be and occasionally is an extension of power in a supplementary decree which goes beyond the provisions of the statute itself. There has been an astonishing growth in orders and decrees, as the briefest glance into the *Reichsgesetzblatt* will indicate. A good illustration of practically unlimited delegation of power to an officer is found in the decree of 1936 dealing with the Four Year Plan in which Field Marshal Göring is given the power to take all measures necessary to fulfill the task assigned him, and to issue all necessary orders and regulations. This sweeping grant of power was not referred to the cabinet, it was not issued as an organic act, and it was promulgated by Hitler in Berchtesgaden after having been first announced at the Nürnberg party congress.

5. The National Governors and the Former States.

In addition to the cabinet members who stand at the top of the administrative structure directly under the *Führer*, the Third Reich has brought into being a new group of high officials who are called *Reichsstatthalter* or National Governors.[5] Following the liquidation of the German *Länder* or states under the law of January 30, 1934, and the transfer of their rights to the Reich, it became necessary to develop new administrative officials who would serve as intermediate authorities between the central government and the local governments in county and city.[6] After two years of experimentation, a definitive act dealing with National Governors was passed in 1935. Under this act, National Governors are appointed and removed by Hitler. Their territories are also determined by Hitler and according to the law, "the national governor is the permanent representative of the national cabinet in his district" and "it is his duty to see that the policies of the *Führer* and National Chancellor are observed." As administrative officers the National Governors are subordinate to the Minister of the Interior and they are subject to the direct orders of the other national ministers. A National Governor may be appointed the head of a state government as in the case of Martin Mutschmann in Saxony and other National Governors in Hesse, Hamburg, and Lippe. State cabinet members are appointed and dismissed by Hitler on proposal of the National Governors. Since the provisions of the national ministers' law apply to them, they occupy an office similar to that of a national minister. Likewise provisions for residences, travelling expenses, salary and representation allowances are similar for National Governors and Ministers.

As Paladins of the *Führer*, the National Governors have destroyed the federal system and have established national control in the former German states. At present there are thirteen of them including Hitler who has reserved to him-

[5] See *Source Book*, IV, p. 16 and p. 19, for the basic laws dealing with these officials.

[6] See the excellent article by Roger Wells, "The Liquidation of the German Länder," in *American Political Science Review*, vol. 30, pp. 350-361.

self the powers of National Governor for Prussia although delegating the exercise of these powers to Hermann Göring, the Minister-President of Prussia. The lives of the present National Governors show that they have been with the party since its earliest days and have worked with Hitler very closely and are intimately bound to him in personal loyalty. In ten cases out of thirteen, the National Governor is the party District Leader whose district most closely corresponds to the former state area he administers. The remaining three are Hitler himself in Prussia, Ritter von Epp in Bavaria, who heads the colonial bureau of the party, and Seyss-Inquart in Austria. This combination of party and state offices is probably very fortunate in that it tends to avoid difficulties which might easily arise between the party leader and the National Governor in the same area. It is also interesting, although perhaps not important, to note that all of the National Governors are members of the Reichstag.

It is possible that the present division of Germany into these thirteen administrative districts may be an important step toward eventual territorial reform of the Reich.[7] Obviously the present unequal system under which one National Governor has forty million people under his jurisdiction and another one only two hundred and twenty-five thousand people, is not likely to be the model for the eventual set-up. If one takes the present number of thirteen National Governors and adds to it the Saarland and the present ten provinces into which Prussia is divided, one comes close to the present number of party districts and perhaps to the future number of German administrative districts.

Because of the great size and importance of Prussia, Hitler reserved to himself the position of National Governor in this state. But as we have seen, he delegated his powers to the Minister-President. About the same time the *Oberpräsidenten* or Chief Presidents of the Prussian provinces were given increased powers so that these officials now occupy a status similar to that of the National Governors.[8] They are nationally appointed and they now have powers in their respective

[7] See the article by Albert Lepawsky on "The Nazis Reform the Reich," in *American Political Science Review*, vol. 30, pp. 324-350 (April, 1936).
[8] RGB, I, 1934, p. 1190.

provinces equal to those of the National Governors in the other states. The Reich therefore now has in the National Governors and in the Prussian Chief Presidents a set of directly controlled intermediate authorities. They act really as provincial ministers and as representatives of the central authorities in their respective areas.

The result is that Germany has become a unitary state and the former *Länder* are now administrative areas controlled by the Reich, with their powers and officials directly under national authority. The officials in the former states still exercise legislative power in local matters. But this is only by delegation from the Reich and such local measures can only be issued after the approval of the appropriate national minister has been secured. A Prussian act for instance carries these words: "In the name of the Reich I proclaim for the *Führer* and National Chancellor the preceding law to which the National Cabinet has given its approval."

6. The Führer as Head of the Civil Service.

The *Führer* as head of the administration is the final authority over the entire civil service. Since the new law of 1937, all German officials are Reich officials and are included under the terms of a uniform civil service act.[9] This act places the official "in a relationship in public law of service and fidelity to the *Führer* and to the Reich." It requires the official to be true and obedient to the *Führer* until death. A complete discussion of the work and place of the civil service in the Nazi state is reserved for the next chapter. It is sufficient here only to note, that this "pillar of the national socialist state" is also directly under the *Führer*.

7. The Reichstag.

The position of Hitler as chief law-giver and as head of the administration has necessarily relegated the Reichstag to an inferior position. This body is now actually a cheering section for the *Führer* rather than an independent organ of

[9] See James K. Pollock, and Alfred V. Boerner, *The German Civil Service Act* (Chicago, 1938).

legislation.[10] As such it resembles the party congress in that it affords Hitler an opportunity of making great pronouncements of national or international importance. Dr. Frick, the Minister of the Interior, has somewhat exaggerated the importance of the Reichstag's position when he referred to it as "the forum to which the *Führer* and National Chancellor brings the essential problems of the German nation's interior and foreign policy for discussion and decision." Nevertheless the Reichstag as an institution has its place in the Nazi system by providing the leaders with a perfectly harmless body of representatives elected by the people, who will furnish outward evidence of the popular support which the regime desires and must have.

The Reichstag may still enact law whenever the *Führer* so decides. But as we have seen, practically all laws are now cabinet acts and not Reichstag acts. Only five acts have been passed by the Reichstag since the enactment of the enabling act in 1933, namely, the law for the new structure of the Reich in 1934, the three so-called Nürnberg laws of 1935 which dealt with race and citizenship, and the extension of the enabling act which was passed in 1937.[11]

Since the decisive election of March 5, 1933, there have been three other Reichstag elections, one on November 12, 1933, one on March 29, 1936, and one on April 10, 1938. The first Nazi Reichstag elected on March 5, 1933, held three sessions, one at Potsdam in the church where Frederick the Great is buried, and two in Berlin (in the Kroll Theatre, not in the Reichstag building).[12] The second Nazi Reichstag referred to as the 9th, had seven meetings, including the one meeting in Nürnberg which lasted fifty minutes. The third Nazi Reichstag was called in session three times, once to extend the force of the enabling act to 1941, once to hear an exposé by Hitler of the achievements of the Nazi regime during the five years of its existence, and once to hear an account of the annexation of Austria. The fourth Nazi Reichstag was elected on April 10, 1938.[13]

[10] It has also been called "the highest paid male chorus in the world."
[11] See *Source Book*, IV, pp. 16-18, 77-85, and RGB, I, 1937, p. 105.
[12] See *Verhandlungen des Reichstags.*
[13] Austrian deputies were included in this new "Reichstag of Greater Germany."

Since there is but one party in Germany, only Nazi candidates can be elected to the Reichstag. No alternative list of candidates is nominated and the voter either puts a cross on the ballot for the Nazi party or drops a blank ballot in the urn. The former provisions concerning Reichstag elections have been altered to accord with National Socialist ideas.[14] Jews are disfranchised but all other men and women twenty years of age and upwards are permitted to vote if they are properly inscribed on the voting registers.[15] The administration of elections still follows the old pattern, but of course the principle of proportionality no longer is operative.[16] The Nazi party nominates its list of candidates and the voter is only permitted to vote for the Nazi party list as nominated by the leaders. Under the republic the voter knew very little about the candidates he was voting for. But today he knows absolutely nothing of the candidates who are nominated and his vote is a ratification of a slate in the making of which he had no part. For every sixty thousand votes cast in the election, one deputy is elected, and since the return of the Saar and Austria and the great pressure exerted by the Nazi party to get out the vote, an unprecedented number of voters have come to the polls. Consequently, the size of the Reichstag has gone up until today it consists of eight hundred thirteen deputies.[17]

[14] See the latest revision of the election laws *Volksabstimmung und Wahl zum Grossdeutschen Reichstag am 10 April 1938* (Berlin, 1938).

[15] At present only uniform nationality exists for citizens of the Reich. The former state citizenship has been eliminated. The Minister of the Interior controls naturalization matters and the naturalization of citizens which occurred between the years 1918 and 1933 may be revoked if there are good political or racial reasons. German nationals residing abroad may also have their citizenship revoked under certain circumstances. The citizenship act of 1935 (See *Source Book, IV*, pp. 77-79) made a distinction between citizens and nationals under which "only such persons as are of German or kindred stock and who have proved by their conduct that they are willing and fit loyally to serve the German people and Reich are citizens of the Reich." Jews cannot be Reich citizens and are therefore deprived of the right to vote or hold public office. They are also prevented from entering certain professions or becoming members of the party or its subsidiaries.

[16] See my *German Election Administration* (New York, 1934), for a detailed treatment of German election machinery and its administration.

[17] Any qualified voter who is absent from his election district on election day may vote wherever he is in Germany, or even on board a German vessel, if he possesses an election certificate (*Stimmschein*) issued

The deputies receive two hundred forty dollars a *month* in salary and they are permitted free transportation over the German railways. All of the important leaders of the National Socialist party, from Hitler on down, are members of the Reichstag. Field Marshal Göring, among his numerous positions, is also the President of the Reichstag, and as such occupies a special residence in Berlin. The meetings of the Reichstag as well as its dissolution occur only on order of the *Führer*.

8. The Plebiscite.

The elections to the Reichstag are not the only ones which occur. The Nazis have utilized the plebiscite to arouse popular support and to register popular opinion in such a way that they may claim to be governing in accordance with the opinion of the overwhelming majority of the German people. "I can govern without the Reichstag," Hitler has remarked, "but I cannot govern without the people." To secure this popular support, the Nazi propaganda machine is loosed upon the German voters at occasional intervals when plebiscites have been called. Under the law of 1933, the cabinet may "question the people as to whether or not they approve of a measure planned by the national cabinet." [18] There may also be a referendum on laws as well as on the measures just referred to. A majority of the valid votes cast decides the referendum regardless of whether the matter referred is contained in a law or in a constitutional amendment.

There have been four plebiscites in the five years of Nazi rule. The first one was called for November 12, 1933, and dealt with the withdrawal of Germany from the League of Nations. The second vote was taken on August 19, 1934, and related to the so-called succession act which combined the offices of President and Chancellor. The election to the Reichstag held on March 29, 1936, was in effect also a referendum on the repudiation of the Locarno treaty, but actually voters only marked one ballot for the Reichstag and were not

for the purpose. See my *German Election Administration*, p. 20, for examples of election certificates. More than a million voters usually make use of this convenient privilege.

[18] See *Source Book*, IV, p. 72, for this law.

asked to mark a separate referendum ballot as in 1933. The fourth popular vote was held on April 10, 1938, when the voters of Germany and Austria were called upon not only to elect a new Reichstag but also to approve the union of Germany and Austria which had been consummated on the 13th of March. In all of these cases the moment for the plebiscite was well chosen, the matter referred to the people was well calculated to secure the widest possible support, and the whole strength of the party organization was thrown behind the campaign to get out the vote.[19] The result in each case was never in doubt and the following percentages were secured in the four plebiscites in favor of the government proposals: 95.1, 89.9, 98.8, and 98.9.[20] The mention of the necessity for a majority is only of formal importance, for "the National Socialist philosophy is not built on the idea of a majority but on the idea of a personality (Adolf Hitler)." The popular appeals to the people therefore serve the purpose of giving the government a popular basis, and of allowing the Nazis to find in them a symbolic act of consent on the part of the people. Thus Hitler is able to say: "No one has more right than I to speak in the name of his people."

9. The Führer and the Army.

Following the death of President von Hindenburg in 1934 and the enactment of the law for national defense in 1935, the *Führer*, in addition to the powers above depicted, has also

[19] The ballot forms used in these various elections are interesting. See *Source Book,* IV, pp. 74-75, and page 150 of this book for the forms used. In the 1933 election there were two ballots, one for the Reichstag and one for the referendum. In 1934 the referendum ballot permitted both a positive and a negative vote, and also contained the text of the proposal being voted on and a statement by Hitler. The 1936 ballot only had a single circle and concentrated the elector's attention on the names of Hitler and five other men heading the Nazi list for the "Reichstag of Freedom and Peace." No separate referendum ballot was used. In 1938, one could vote "yes" or "no" but the issue of union with Austria and the election to the Reichstag were combined on this one ballot.

[20] These percentages are computed by dividing the number of votes cast for Hitler by the total number of votes cast in each election. The figures given by the National Election officer are used. In the last election 49,493,028 persons were qualified to vote in Greater Germany and 99.57 percent of them voted. There is no point in giving a detailed analysis of the vote in the various districts when only 452,170 votes were counted against the National Socialist list in the 1938 election.

become the supreme head of all the armed forces of the Reich. In Germany this means much more than in other countries, for since the time of Frederick the Great there has been much truth to the adage that Germany is not a country which has an army, but rather an army which has a country. Or as a recent writer has stated it: "At each successive stage in German history, the military gained their principal ends, winning victory by operations in public and behind the scenes." [21]

Under the Weimar republic and the restrictive provisions of the treaty of Versailles, the German army developed quite outside the political framework of the nation.[22] Military jurisdiction was abolished by article 106 of the Weimar document, and the army showed little sympathy for the parliamentary state. It was not until the Hitler regime was well established that the attitude of the army changed. Hitler had always expressed great admiration for the army and made it clear that he considered the army one of the fundamental pillars of the new state. He promised his audiences that he would enforce point 22 in the party program by creating an army to include the whole nation. After the "blood purge" of June 30, 1934, the army became even closer to Hitler, and the Storm Troops were relegated to an inferior position. In his speech before the Reichstag on July 13, 1934, Hitler declared that he had solemnly promised Hindenburg to protect the army as a non-political instrument of the German people.[23] The former Minister of War, Field Marshal von Blomberg, on the army side, gave evidence of being motivated by "the National Socialist spirit.[24] Ardent

[21] Alfred Vagt, *A History of Militarism*, p. 199.

[22] See Friedrich Haselmayr, "Die Wehrmacht," in *Die Verwaltungs-Akademie*, vol. II, no. 28.

[23] Furthermore, the national defense law in section 26 forbade soldiers to take part in politics. Even members of the National Socialist party who were in the army were required to lay aside party activity during the period of army service. Apparently, however, article 39 of the Weimar constitution is still kept in force to permit members of the armed forces to sit in the Reichstag, i.e., Göring.

[24] He remarked one time: "The defense force will be a place where the spirit of National Socialism and true fellowship are cultivated. A military organization can only be strong and united if rooted in the people out of which it grew and by which it is carried. . . . The defense force serves the present and contributes to the work being carried on in behalf

Nazis like Rosenberg and Göring made it clear, however, that they considered the party to be more important than the army.

The law for national defense of 1935 reëstablished universal military service and started Germany on a colossal program of military expansion.[25] All of the members of the armed forces were required to take a personal oath of loyalty to the *Führer*. But the development of the military program was entrusted exclusively to the army leaders, and up to February, 1938, it appeared that the army was not only loyal to Hitler but was grateful to him for having restored its position, power, and prestige. At that time, however, Hitler apparently became suspicious of the strength of the army bureaucracy, and by a series of swift moves in the early days of February, 1938, reorganized the army command and placed himself in direct personal command of the entire armed establishment.[26] The resignations of the Minister of War and the Commander-in-Chief of the army, General Werner von Fritsch, were accepted and the Secretary of State in the war ministry was given a position corresponding to that of a minister but without the title of Minister of War. Through him the *Führer* exercises control over the armed forces. Simultaneously, a number of the more important officers in the staff were removed and their places taken by other officers. Altogether, the military shake-up was the most drastic one which the Nazi regime has seen, including as it did also a reorganization of the foreign office. Hereafter, there are to be no interferences with the *Führer* either on the part of his policy advisers, or on the part of his army. War as an instrument of national policy is from this time

of Germany's future. . . . I feel sure that the military will continue to justify the confidence placed in them, true to the oath which binds them in life or in death to Adolf Hitler, the creator and leader of the new Germany."

[25] See *Source Book*, IV, pp. 85-94, for this law and the proclamation which accompanied it.

[26] RGB, I, 1938, p. 111 (Feb. 5, 1938). At the same time a secret cabinet council on foreign affairs was created consisting of the former foreign minister von Neurath as president, and Lammers as secretary, the other members being Ribbentrop, the new foreign minister, Göring, Goebbels, Hess, two generals (Keitel and Brauchitsch) and one admiral (Raeder). RGB, I, 1938, p. 112.

forward to be the decision of Hitler, and the restraining, independent hand of the German army seems now to have been weakened.

10. The Courts.

Thus far we have been able to observe complete unity of command in the *Führer*. He is head of the administration and of the army, and is chief legislator as well. But how about law and the courts? Is Hitler also Chief Judge?

The answer has come from Hitler's own lips. In his Reichstag speech of July 13, 1934, following the "blood purge," the *Führer* remarked: "In this hour, I was responsible for the fate of the German nation and therefore I was the supreme law lord of the German people." This observation when linked with the further statement that law is the political command of the *Führer*, summarizes in succinct form the position of law and the courts in Germany today.[27] There is therefore no such thing as an independent judiciary and independent judges. The principle of political leadership dominates the court system and the judicial power is now subjected to central dictation. Judges and judicial officials are required to swear an oath of loyalty and obedience to the *Führer* and new norms are being laid down for them to follow in their decisions.

In the conference of German Jurists in 1936, Dr. Frank, Minister without Portfolio, and law leader of the party, laid down the directions for judges in very clear language. "The party program," he remarked, "has for the German legal profession an importance as decisive as that of the *Führer's* book *My Battle*. The party program is valid, however, for the legal thought and the legal reality of the Third Reich, not as formal statute but by virtue of the creative will of the *Führer*. The party program has not the power of formal statute; it is, however, a guiding line for decision in all the social problems of the German people as well as for the solution of historical tasks. Since in the party program are to be found the ultimate aims of the National Socialist party, it

[27] See the excellent study by Karl Löwenstein on "Law in the Third Reich," in *Yale Law Journal*, vol. 45, pp. 779 ff. Also *Jahrbuch des öff. Rechts*, vol. 24, pp. 136-142.

must be used as a help to the German lawyer in the science, dogma and practice of the law. The party program is the line of evolution of German life. Every member of the legal profession must keep to this line of thought and action. *Say to yourselves at every decision which you make: How would the Führer decide in my place?* In every decision to which you are obliged ask yourselves: is this decision compatible with the National Socialist conscience of the German people? Then you will have a firm, iron foundation which, allied with the unity of the National Socialist people's state and with your recognition of the eternal nature of the *Führer's* will of Adolf Hitler, will endow your own sphere of decision with the authority of the Third Reich, and this for all time." [28]

With no constitutional document existing, and with supreme political power resting in the *Führer*, there cannot be any judicial review of statutes, nor any serious legal checks placed on the administration. The various courts therefore are in an entirely different position than under the Weimar constitution when their independence was protected and they were subject only to the law.

Under Hitler an important structural change in the court system has taken place. All judicial powers have been transferred from the states to the Reich, and all judicial officers have become Reich officials. The Minister of Justice combines in his office the complete control over the judicial system of Germany including the training and admission of candidates for court positions. The courts now hand down their decisions "in the name of the German people." This significant amalgamation of state and federal judicial authorities involved the taking over of sixty-five thousand officials and some two thousand governmental offices, and represents one of the most notable steps which the National Socialists have taken toward a unification of administrative organization.

The structure of the former court system has not been greatly disturbed and the ordinary jurisdiction of the courts has not been fundamentally changed. There are three kinds of courts: ordinary, administrative, and special. The ordinary

[28] Quoted by Charles H. Wilson in *Political Science Quarterly*, vol. 52, pp. 481-505.

courts consist of (a) district courts called *Amtsgerichte*; (b) state courts called *Landgerichte*; (c) state superior courts called *Oberlandesgerichte* (in Berlin *Kammergericht*); and finally (d) the national supreme court or *Reichsgericht*. The local court exercises original jurisdiction both in minor civil and criminal cases. It consists of an individual judge who may also belong to the superior state court. For purposes of supervision, the district courts are under one of the superior state courts. In the more important criminal cases, the judge is assisted by two lay justices (*Schöffen*) who correspond in a general way to jurors but who exercise the same rights as the judge.

The state courts consist of a president and a varying number of associate judges. Both civil and criminal chambers are established, and appeals are heard from the inferior courts. Jury courts or *Schwurgerichte* are set up in connection with the state courts to hear many kinds of criminal cases over which the state courts have original jurisdiction. Such courts have three judges and six jurors. Special chambers for commercial affairs are sometimes established at the state courts.

The superior state courts (twenty-six in number) are also divided into civil and criminal chambers and hear appeals from the lower courts. At the top of the judicial hierarchy stands the *Reichsgericht* or national supreme court organized into seven civil senates and five criminal senates, and since 1935 also into a great senate for civil matters and into a great senate for criminal matters. Some ninety-one judges perform the extensive work of this court, which has its seat at Leipzig.

The system of administrative courts has survived the National Socialist regime, and although these courts have necessarily lost a part of their former importance (since administrative finality now governs in many cases) they continue to operate in the usual way in the restricted sphere.[29] These

[29] The Minister of the Interior in an important pronouncement before the Academy of German Law in October, 1936, had this to say: "The new administrative law must be so formed that it affords the widest possibilities for the creative person, and so that it forces the executive organs of the state to meet decisions on their own responsibility by granting them sufficient scope of individual judgment. The question is here whether and to what extent the leadership principle which has been realized in the sphere of state law can be transferred to the sphere of administrative law. . . . It is obvious in this connection that decisions

courts are still products of state law despite expressed Nazi intentions to set up a National Administrative Court. In Prussia they consist of (a) lower administrative courts (the *Kreisausschüsse*—county and city); (b) the district administrative courts (*Bezirksausschüsse*) composed of an administrative officer as chairman and laymen appointed for a term of years; and (c) a supreme administrative court (*Oberverwaltungsgericht*) consisting of a president and associate judges with permanent tenure.[30] In the first-named courts some of the members must have had administrative and judicial training, and in the highest court one-half of the judges must have the qualifications of judges of the ordinary courts and the other half must meet the requirements of the higher civil service. In this way the interests of public administration and the rights of individuals are balanced and considered.

In addition to Prussia, administrative courts exist in the other states but they do not follow any uniform pattern in the matter of titles, judges, and jurisdiction. It is interesting to note that although the states have been divested of their governmental functions, the act of 1934, which consolidated judicial power in the Reich, expressly excluded the administrative courts from its application. In this large field of administrative courts, therefore, the Hitler regime has not yet brought about *Gleichschaltung*. Seventeen different state administrative codes still remain.[31]

Although the Reich does not possess a system of general administrative courts, special administrative tribunals like the Federal Poor Law Board (*Bundesamt für Heimatwesen*) and the National Finance Court (*Reichsfinanzhof*) have been

which have been met according to state-political estimate may, under no circumstances, be submitted to an administrative judicial investigation. The actions of the Government and the measures of the highest authorities of the Reich must be beyond all dispute, for political leadership must not be hampered in the pursuit of its political aims. Administrative jurisdiction should merely be a constant aid to a competent, uniform, and just administering executive." He indicated in this speech that a new general administrative law was being prepared.

[30] See the excellent articles on "The German System of Administrative Courts" by Rudolf E. Uhlman and Hans G. Rupp in *Illinois Law Review*, vol. 31, pp. 847-878, and vol. 31, pp. 1028-1046 (March and April, 1937).

[31] The civil service act of 1937 referred to a new national administrative court in several sections, but such a court has not yet been created.

created with limited jurisdiction whenever particular fields of national administration needed to be subjected to proper judicial review. There are a large number of these courts in Germany.

It is not easy to tell when an ordinary court or an administrative court has jurisdiction over a certain case. In cases of conflict, special conflict tribunals decide. The jurisdiction of the administrative courts ends where the discretion of the administrative authority begins. In other words, it is not up to the courts to decide whether the administration has made an expedient use of the discretion given to it by law. But the courts will determine whether in a given case the decision was left to the discretion of the administrative authority, and if it was, whether the agency had duly observed the limits of its discretion.

Another feature of the German court system is the fact that many special courts are set up to deal with special functions. There are labor courts, arbitration courts and similar judicial bodies to handle patent, war injury, railroad, and insurance cases. These specialized courts have developed a somewhat bewildering multiplicity of legal processes, but the value of having specially trained and skilled judges to handle such matters is great. A whole new set of so-called professional and honor courts in connection with the new Nazi guilds and "estates" has been created, and these courts have interfered considerably with the ordinary judicial processes.[32]

The most important new court created by the National Socialist regime is called the People's Court (*Volksgerichtshof*). This court, now included in the list of regular courts, "is competent to investigate and to decide in first and last instance, cases of high treason, and of treason against the country." The members of the court are a president, two senate presidents and six judges appointed for life and a panel of laymen appointed for five years, the latter "chosen from those professions most likely to be acquainted with the significance of crimes, that is either military, police or party

[32] For instance, social honor courts for labor, honor courts in the agricultural estate, special courts under the hereditary farm law, and hereditary health courts.

officials."[33] Used in conjunction with the new penal code which makes intention an all-important factor, and administered without regard to due process or sound criminal procedure, this notorious court has proved an effective instrument of Nazi domination. Together with the party courts, described in the preceding chapter, the People's Court acts to keep the citizens in line, and to punish opponents of the regime according to the most modern star chamber procedure.

German judges, public prosecutors and other judicial officials, as well as lawyers, must undergo a severe legal education and training before they are permitted to act in any public or private legal capacity. Today under the uniform training regulations, prospective judges, lawyers, and officials must also give adequate evidence of being imbued with the National Socialist spirit. The judicial officials are under the direct supervision of the Minister of Justice, and lawyers are now included in a lawyer's guild called the *Reichs-Rechtsanwalts-Kammer*—all Jews of course being excluded from the profession. There is also an Academy of German Law with the function of promoting "the re-formation of German legal life and in close, continuing union with the competent legislative offices to realize the National Socialist program in the whole field of law."[34]

A high degree of administrative centralization in court matters exists, but no thoroughly integrated, centralized court structure and procedure have been created. Much of what was formerly the private law of the states has been taken over or replaced by federal legislation or administration. Such subjects as agriculture, land settlement, mining, forestry, hunting and public health have been made uniform and brought under central administrative authorities. And the former state ministries of justice and the former state courts have been transferred to the Reich. But behind the facade of uniform power we find the many special courts for farmers, for authors, for artists, for workmen, and we know of much legal confusion and uncertainty. The Nazis have by no means simplified and unified Germany's judicial organization.

[33] A study of the lay members discloses that this provision has been properly carried out.

[34] See Pollock and Heneman, *The Hitler Decrees*, 2nd edition, p. 53.

The new penal code is a recent attempt to develop the purely Nazi concepts of law. It is based on the conviction that "the national sense of right or wrong is the source of all jurisprudence" and "is intended to be the living outward expression of the national ethics which have their roots in the character of the people." [35]

So far as law and the courts are concerned, therefore, "National Socialism attains its political ends by destruction of the rule of law. Separation of powers, independence of judges, judicial control of administration, impartial efficiency of the civil service, a bill or rights as a safeguard against executive and legislative encroachments, all these elements of the rule of law are over-ruled by the monocratic omnipotence of the *Führer* and the party." [36]

11. The Corporate Structure; Local Government.

One final feature of Nazi governmental structure remains to be mentioned, namely, the National Socialist "estates" or guilds. These organizations which Professor Friedrich most aptly refers to as "prolongations of the governmental bureaucracy," [37] will be discussed in some detail in a later chapter. Here it is sufficient to note that the various "estates" are supposed to reach out and gather as many members into their organizations as possible, and thus further the regimentation and control over the whole population. All of these organi-

[35] The following extract from "The New Criminal Code—a few fundamental thoughts to accompany it" issued by Dr. Gürtner, the Minister of Justice, and several of his collaborators, is interesting and revealing: "The government has decreed the present law and presents it to the German nation in the conviction that the German Criminal Code must be pervaded by the National Socialist philosophy. The sound intuitive perception of right and wrong felt by the people determines the content and application of the criminal code, while its sense and purpose find expression in the expiation of wrongdoing, the protection of the nation, and the strengthening of the will to act in the interest of the commonalty. Its task is to protect honor and honesty, race and inheritance, uprightness and probity, and the power to work, discipline and order. It bears the impress of the master motto of National Socialism—'the common weal before private interests'. That is the spirit in which the present law has been created and justice will be administered in that spirit by appointed judges who serve the German people as the guardians of justice."

[36] Professor Löwenstein in *Yale Law Journal*, vol. 45, p. 802.

[37] Carl Joachim Friedrich, *Constitutional Government and Politics*, p. 464.

zations are attached to the various ministries, and through them come under the direct control of the *Führer*. Finally, it should be noted that the whole structure of local government (later to be discussed) has been coordinated and brought under the immediate supervision of the Minister of the Interior, who in turn is one of the *Führer's* subordinate administrative authorities.

Every part of this enormous and extensive governmental structure just portrayed rests upon the authority of the *Führer*. As head of the administration, as chief legislator, as chief judge, as commander of the armed forces and head of the civil service, he unites in his person all the authority and power of the state. The *Führer* commands the party, the state, and the *Wehrmacht*. In his person the control of Germany's entire political life is centered.

12. The Position of the Individual.

In such a system the individual counts for little. The rights and liberties so deeply cherished in democratic countries are non-existent. Freedom of the individual in Germany has yielded to a freedom that results from a perfect political organization entering into the life of everyone. As George Santayana wrote in a little known essay on "German Freedom" in 1915: "Freedom in the mouth of German philosophers has a special meaning. It does not refer to any possibility of choice or private initiative. It means rather the sense of freedom which we acquire when we do gladly what we should have to do anyway." And what we should have to do anyway is what the state orders.

In his address at a recent Harvest Thanksgiving Festival on Bückeburg hill, Hitler dealt with individual freedom, and pointed out his own position in the Nazi governmental structure. "Before National Socialism took over power," he stated, "other principles ruled. At that time there was a liberalistic watchword—'everyone may do what he pleases.' Then followed the Marxist motto—'Every class may do what it pleases.' Today there is but one watchword—everyone must do that which is of benefit to all! How would it be possible to maintain a community when every member in it did just as he pleased, what he thought he could do. Equally

impossible is the motto that every class can act as it pleases. . . . There is therefore no freedom of the individual any more than freedom for the classes. What does freedom of the individual mean? The peasants themselves know how they are compelled by nature and by the calls of their profession to carry out certain duties whether they like them or not, whether the weather is good or bad. Nature continually forces man to do things which do not please him. There is but one form of freedom—the freedom of the nation! And this freedom can only be guaranteed if every individual is prepared to do his part in sacrificing for this freedom. Freedom of the nation means above all the securing of a rule of conduct for life. The National Socialist state has set up an authority which is not only prescribed for a certain class—it comprises the whole nation, and carries thereby the total responsibility for the nation. ONE must bear this responsibility."

CHAPTER V

THE GERMAN ADMINISTRATIVE MACHINE

When the former British Prime Minister Stanley Baldwin referred to administration as "the essence of government and its quality a prime condition of civic comfort," he gave proper expression to a fact of universal importance in government. In Germany as elsewhere in the modern world, much depends on how governmental policies are administered. With Hitler, as with Brüning or Stresemann or William II, the success attending his decisions has depended to a great degree upon the excellence of his administrative machine. It is one thing to give an order. It is another thing to carry out that order.

In Germany where so much power is concentrated at the top of the government pyramid, unusual importance attaches to the administrative process. If one defines administration as continuing, planned action for the achievement of definite purposes, one can see that a monocratic state needs this tool of modern government quite as much, if not more, than a democratic state. In Hitler's Germany, however, great care is taken to make certain that administration is only a tool of the leadership, and that it avoids becoming "a soulless bureaucracy" or a "technical machine." It is supposed at all times to feel a responsibility for achieving the common welfare in its various functional fields, and act according to the leadership principle. The limits of administrative power, furthermore, instead of being legally defined and controlled, as under the Weimar regime, are now determined "only by the *Weltanschauung* of national socialism," and are only legally controlled "in a higher sense."

There are in Germany today three kinds of administration, party administration, administration of the armed forces, and public administration in the ordinary sense of that term.

The three are united in the person of the *Führer* but have separate tasks. We have already treated party and army administration, and it now becomes most important to understand how the vast administrative apparatus of the Nazi state is actually organized and operated.[1]

1. National Administration.

With the proclamation of a unitary state in the law for the new structure of the Reich, the former distinction between state administration and national administration was eliminated. Today there is a unified national administrative machine operating under the leadership principle. A beginning had been made in this direction under the Weimar republic when such functions as finance, labor, public welfare, and transportation were largely nationally administered. But article 14 of the constitution provided that "the laws of the Reich will be executed by the state authorities unless otherwise provided by national law," and therefore a division of administrative power continued. At present, pending a complete territorial reorganization of the Reich, the former states continue to be a part of the administrative apparatus, but they exercise power only by delegation from the Reich.

Self-government has likewise disappeared (except in the peculiar Nazi meaning of that term). Also in place of the collegial organization at the top of the administrative ladder, there is now applied, with absolute completeness, the bureau principle under which administration is built like a pyramid and all orders are issued by the head or by someone representing him or delegated by him. No majority vote is now necessary in a cabinet, and all power and authority derives from the head of the organization. As Hitler has put it: "Authority of every leader downward and responsibility upward."

In order to keep administrative authorities in touch with the pulse of the people, however, the Nazis have made wide use of advisory councils (*Beiräte*). The national economic council to advise the Minister of Economics, the national

[1] See *Handwörterbuch der Rechtswissenschaft*, vol. 8, pp. 754-766, for a review of recent administrative developments by Dr. Georg Kaisenberg.

transportation council to advise the Minister of Transportation, the Council of State in Prussia, the advisory council to the national economic chamber, and the municipal councillors in cities, are instances of the use of these advisory bodies.

2. The Ministries.

Under the *Führer* then, Germany has built an elaborate central administrative structure, and has modified the other parts of the administrative machine wherever necessary. The top part of the central organization consists of the *Führer*, who is served by three chancelleries in which all lines of administrative authority converge. These three chancelleries are: (1) the presidial chancellery under *Staatsminister* Meissner; (2) the national or Reich chancellery under *Reichsminister* Lammers; and (3) the chancellery of the *Führer* of the *NSDAP* under *Reichsleiter* Bouhler. Next come the fourteen ministries included in the cabinet. At present these are as follows:

1. Foreign Affairs
2. War
3. Finance
4. Justice
5. Post Office
6. Propaganda
7. Air
8. Interior
9. Economics
10. Labor
11. Transportation
12. Agriculture
13. Education and Science
14. Church Affairs

The first of seven of these ministries are called Reich ministries. The last seven are referred to as Reich and Prussian ministries, indicating an administrative unification of the Reich and Prussia. Only a separate Prussian ministry of finance still exists. All other administrative functions in Prussia are now combined with the appropriate Reich ministries.

The prime importance of the Ministry of the Interior in the administrative structure should be emphasized. This ministry is at once the constitutional ministry, the administrative ministry, and the police ministry. It is also the chief authority in personnel matters, in the supervision of local government, and in health matters, and it also includes the

Sport Leader and the Labor Leader within its jurisdiction. The Ministry of Propaganda and Public Enlightenment, one of the creations of the Nazis, and in charge of the able Dr. Goebbels, deserves more attention than can be given to it here. It has spread its offices all over the Wilhelmstrasse governmental area in Berlin, and its hands are in every governmental pie. A study of its organization and methods would show it to be one of the vital cogs of the Nazi machine.[2]

In addition to the fourteen ministers who are heads of the above departments, there are at present three other members of the cabinet without portfolio, namely, Hess, Frank, and Lammers.[3] Hess is the Deputy Leader. His political and administrative position has been described earlier. Frank is the head of the Academy of German Law, head of the party office on legal affairs, member of the party cabinet, and head of the Association of German Jurists. Lammers is head of the National Chancellery and as such is probably the most important purely administrative officer, supervising as he does the flow of business between the *Führer* and the cabinet, all departments, and higher national authorities. His importance was recognized in 1937 when for the first time he was made a national minister. His present title is National Minister and Chief of the National Chancellery.[4]

Next in the administrative organization come the highest administrative authorities (*obersten Reichsbehörde*) which are not under the jurisdiction of any department but which come under the supervision of the national chancellery, acting for the *Führer*. There are only a few of these authorities: (1) the Court of Audit of the German Reich; (2) the General Inspector of German Highways; (3) the Reich and Prussian Forestry Office; (4) the National Planning Office; (5) the Youth Leader; (6) the Reichsbank; (7) the Com-

[2] See Fritz Marx, "State Propaganda in Germany," in *Propaganda and Dictatorship* (Princeton, 1936), pp. 11-31.

[3] Dr. Schacht, no longer Minister of Economics, but reappointed President of the Reichsbank for another term, still carries the title of Reichsminister.

[4] RGB, I, 1937, p. 1297. A short time later the *Führer* created the new title of *Staatsminister* and Chief of the Presidial Chancellery and gave it to Dr. Meissner, RGB, I, 1937, p. 1317.

missioner of the Four Year Plan; and (8) the Inspector General for Berlin.[5] Unlike the very numerous American independent commissions, these highest administrative authorities which are not a part of any department, are nevertheless under the supervision of the *Führer* through his national chancellery. In the case of the Planning Office, the Forestry Office, and the office of the General Inspector of German Highways, it is likely that in time a permanent place will be found for them within the jurisdiction of some department.

A number of other higher national authorities (*höheren Reichsbehörden*), with jurisdiction over the whole of the Reich, but included within the portfolio of some regular department, should be referred to. They must not be confused with the intermediate Reich authorities, whose jurisdiction does not extend over the whole Reich but only over their own districts. In the Interior Department, for instance, one finds the National Topographical Office, the National Health Office, the Federal Poor Law Board, the National Disciplinary Court, the National Sport Leader and the National Labor Leader. In the Ministry of Finance there is the National Finance Court and the National Debt Administration. In the Ministry of Economics there is the National Economic Court.[6] In other countries these important functions are usually given independent status, but in Germany the whole administrative machine is closely integrated.

Finally, brief mention should be made at this point of the new corporate structure which has been built up by the National Socialists to reach out into all walks of life and enroll

[5] By an important act of February 10, 1937 (RGB, II, 1937, p. 47), the Reichsbank directorate, formerly independent, was placed under the immediate control of the *Führer*. Under the same act the German Railways were similarly incorporated directly into the national administration. Their employees have become direct national officials, and the administration of the railways has been placed under the Ministry of Transportation. On February 2, 1937, the *Führer* appointed the head of the German Railways, Dr. Dorpmüller, to the post of Minister of Transportation.

[6] Under the law of February 25, 1938, RGB, I, 216, this court takes over the jurisdiction of the former cartel court. It is an administrative court made up of judicial and expert members, the former appointed by the *Führer* from those qualified to be judges, the latter by the Minister of Economics and the Deputy Leader from a list of persons belonging to the Economic Chamber.

as many Germans as possible into this new associational field. The National Economic Chamber, the National Agricultural Estate and the German Labor Front, are instances of these new "estates" or "corporations." From the administrative point of view the interesting fact is that all of these estates are included under the jurisdiction of some one of the ministries. The Culture Chamber, for instance, is included within the Ministry of Propaganda and the National Economic Chamber is a part of the Ministry of Economics. Although they may carry on extensive activities and reach out into all parts of the Reich and direct the activities of countless citizens, for administrative purposes they are under the supervision of some appropriate ministry.

3. Intermediate National Authorities.

Territorially the national administrative machine reaches down into the sub-divisions of Germany and includes within its scope a set of intermediate national authorities. At the present time the National Governors and the Prussian Chief Presidents are the intermediate national authorities with powers of general supervision. There are also a number of national intermediate authorities for specific administrative functions, for instance, the district finance offices, the district labor offices, the principal insurance offices, the aviation offices and the trustees of labor. One may also at the present time designate the existing State Ministries in the former German states as intermediate national authorities owing direct responsibility to their administrative superiors in Berlin. Under the new municipal code, local authorities, although considered to be indirect national officials, are brought under the direct supervision of national authorities. Looked at from the bottom, the general administrative structure of the Reich is built territorially as follows: the villages, the counties and city-counties, the administrative districts, the present areas under the National Governors and the Prussian Chief Presidents, which may foreshadow the future *Gaue* into which the Reich is to be divided, and finally the central national administration.

One should keep in mind that in this national administrative structure there are at many points close inter-connections

with the party administration. A simplification and unification of the two administrations, party and state, are achieved at several points. It is interesting to note in this connection that the former party propaganda offices have now been taken over by the Propaganda Ministry, and the Labor Service has also become a state function with the Labor Leader in the Ministry of the Interior.

4. Administrative Developments under National Socialism.

When one considers all of these recent developments, it seems clear that Germany is very rapidly on the way toward the development of a unified national public administrative apparatus. This development has included the creation of four new ministries at the center, namely, Propaganda, Air, Education and Science, and Church Affairs. It has strengthened former indirect national supervision over such matters as surveying, mining, and agriculture. It has led to the creation of many new offices or public corporations which have been brought under the jurisdiction of some department or placed under the *Führer* personally. Instances are the Youth Leader and the new office for sport, and the *Gemeindetag* or Union of German Cities. The administration of justice has been taken over completely by the Reich, and a unified control over all the German police has been established in the Ministry of the Interior.[7] This significant development which was consummated in 1937 and became effective simultaneously with the new civil service act, establishes uniform regulations for police of all categories. Henceforth a complete transferability of police is possible, and uniform provisions for entrance, training, and retirement are created. As the Minister of the Interior, Dr. Frick remarked as he installed the head of the *SS*, Herr Himmler, in his new office as Chief of the German Police: "This is the first time in the thousand year history of Germany that a single leadership has been established in police matters for the whole Reich, one leader of the entire German police, who guarantees the unity of the executive in Germany."

Another very significant administrative as well as political

[7] RGB, I, 1937, p. 653 (June 29, 1937).

development is the special position given to one member of the cabinet by appointing him Commissioner of the Four Year Plan. Field Marshal Göring is authorized under the decree of October 18, 1936, to issue direct orders both to national ministers and to party organs, thus assuring complete cooperation and coordination between the state and the party. In the main the Commissioner is supposed to avail himself of existing administrative machinery, notably the Ministry of Economics, and to limit himself to planning and supervisory functions. It is very clear, however, that the secretariat formed for this purpose has been inflated into the proportions of a regular department. When Dr. Schacht resigned his position as Minister of Economics because of difficulties between him and Göring, the latter became acting Minister of Economics until the former secretary of state in the Propaganda Ministry and Press Chief of the Cabinet, Herr Funk, took over the office in the middle of January, 1938. Göring now refers to the Ministry of Economics as the chief executive organ for the carrying out of the Four Year Plan. At the time of the recent army shake-up, the military nature of the plan was further emphasized when two generals took over the headship of the two most important divisions in the Ministry of Economics. Henceforth the Ministry of Economics has as its principal activity the execution of the Four Year Plan.

The growth of centralized administrative control is further illustrated by the taking over of the labor service by the Reich and by closely associating the labor service with the army. The labor service and the army have the same administration for recruitment and supplies. Similarly in financial administration, soon to be discussed, and in transportation matters, a unified national administration has been developed. A new direct national authority has been set up to supervise forestry and animal life and under the Chief Forester and Master of the Hunt (Göring again!), the country is divided into districts, each being supervised by a district officer appointed by the Chief Forester. A national society of German hunters has been given the status of a corporation of public law and is brought under the jurisdiction of the Chief Forester, this official being directly under

the *Führer*. The new Ministry for Church Affairs has been the administrative agency responsible for the extensive and important changes in the relation of church and state in Germany, a subject which will be treated in a later chapter.

In the field of substantive administrative law, the National Socialist regime has made extensive strides toward unifying the control over many fields of activity. The compulsory labor service has already been referred to, the new law for the protection of wild life, the law to prevent the spread of hereditary diseases, the law for the support of families, the various laws dealing with cultural matters, housing, social insurance, public welfare, power, land reform, business, taxation, traffic control, and credit matters, give some indication of the legislative and administrative activity which has characterized the National Socialist regime. When new fields have been opened up, new administrative staffs have perforce been developed to handle the new and increased work. The total result is that the central administrative organization not only exercises or controls an extensive array of governmental functions, but through the various corporate organizations which are included within its jurisdiction, it has achieved a centralized government direction of associational life in all of its aspects. Such a portentous administrative organization, reaching as it does into every nook and corner of Germany, has never been seen before in the whole history of government. The administrative apparatus of the state when taken together with the vast party organization (with which it is connected in personal union at many points) has been able to carry on a government program which in any other country would fall of its own weight and be foredoomed to failure. Both the structure of German administration and the personnel which administers it must be given a large part of the credit for whatever success has attended the efforts of the Nazi regime.

5. Main Features of German Administrative Organization.

By way of summarizing the nature of the German administrative organization, a number of important characteristics should be pointed out. First of all, the central administration is the organizing authority for subordinate administration,

thus being free to plan its own machinery and to develop as much flexibility or rigidity in administration as it likes. In the second place, all special agencies of public administration with the exception of those at present directly under the *Führer* are placed under the jurisdiction of some department. German practice does not permit boards, commissions, agencies, offices, or public corporations to have an independent position. They must all be subordinated to, and supervised by, some appropriate department. In this way it is possible for adequate control to be exercised over every single government activity. Third, the German administrative machine is hierarchical in organization so that every agency and authority is subject to the supervision and control of the next higher authority. This organization has produced the strong administrative control which is one of the important features of the German system. Such a system tends to be very complex and to develop "red tape." But it is highly efficient, and avoids the looseness and irregularities which are so noticeable in the United States.

Fourth, administrative authorities are given powers equal to the tasks imposed upon them. Consequently, they may take whatever measures are necessary to carry out orders. Fifth, with the elimination of the former German states, a unified command over all of the authorities of the whole Reich has been established. Although the form of this territorial control has not yet been permanently fixed, a unitary organization has supplanted a federal one. This fact when taken together with the strong discipline which has always existed within the ranks of the civil service, gives Hitler a better organization for the carrying out of his program than has ever before been possessed by a German leader. Sixth, one should note that there has been on the whole a logical grouping of functions within departments. Seventh, in important areas of administration, advisory councils (*Beiräte*) of experienced citizens are associated in an honorary capacity with administrative authorities, in order to give the latter the benefit of their special knowledge, and also to keep administration close to the pulse of the people. Finally, at the present time, due to the uncertain status of the regular administrative courts in the leader-state, the former judical con-

trol over administrative acts, which was the basis for much admiration of the German administrative system, is no longer of prime importance. In a word, German administration is organized in a very efficient manner, and has developed an admirable system of supervision and control which eliminates much of the looseness and ineffectiveness in administration which is noticeable elsewhere.

6. The German Civil Service.

This elaborate administrative apparatus is important in itself, but without the blood and life of an able civil service it would interfere with, rather than aid, the government of the country. Fortunately for Germany, there is in operation a highly developed, efficient and disciplined career service which in many respects has no equal in the world. For more than two hundred years, in fact since the time of the Great Elector in the seventeenth century, the Prussian state and Germany have gradually improved their administrative staffs until today the German public service is the most complete in the world.[8] As a leading German authority has pointed out, as early as 1794 in the Prussian General Code it was provided that "an office shall not be conferred upon anyone who is not sufficiently qualified, and has not given evidence of his ability."[9] Following the formation of the Reich, a comprehensive national enactment on the subject of civil service became law in 1873.[10] This basic act, with several important changes, and with the constitutional supports which were given to it in the Weimar constitution, continued in force until superseded by the new National Socialist Civil Service Act of 1937. This new act, together with the new National Service Disciplinary Code, which was promulgated at the same time, gives Germany the most complete and thorough

[8] See C. J. Friedrich in Leonard D. White, *Civil Service in the Modern State*, pp. 407 ff., for selections concerning the civil service prior to the Nazi regime.

[9] F. M. Marx, *Civil Service Abroad* (Germany), p. 179-180.

[10] But the various states had their own services which continued to perform most of the administrative work for the Reich.

code of personnel matters to be found anywhere in the world. They represent the culmination of two hundred years of Prussian and German experience with civil service.[11]

When the Nazis came to power in 1933, they did not, therefore, have to build up a competent bureaucracy to carry out their policies. The same able personnel system which had served the monarchy and the republic was available to serve the National Socialists. But the Hitlerites did not take over the former civil service without giving it a National Socialist bath to "cleanse" it of all elements likely to be antagonistic to party policies.[12] Rather extensive personnel changes took place in some departments. The police forces, for instance, were drastically reorganized. But in the technical departments and in the Foreign Office, changes were few. Of course the new legal provisions excluding Jews, and permitting the discharge of civil servants "for the simplification of the service," or "because their previous political activity does not offer security that they will exert themselves for the national socialist state without reservation," permitted the Nazis to discharge all officials whom they considered undesirable. And furthermore, the new departments were filled up almost entirely with faithful party men.

On the whole, however, the great mass of civil servants remains as before, and a complete purge, *a la Americaine*, did not take place. In fact, most of the civil servants who were dismissed were given pensions. Party men were quite disgusted that the high standards of appointment should continue to be maintained to the exclusion of thousands of "deserving National Socialists." But discontent was either disregarded or softened by other actions, such as appointment to party positions, or indemnification for party activity. In any

[11] See James K. Pollock and Alfred V. Boerner, Jr., *The German Civil Service Act* (Civil Service Assembly of the United States and Canada, Chicago, 1938) for a complete translation of this elaborate law together with a prefatory note and selections from the service disciplinary code and the salary schedules. Also *Deutsche Verwaltung*, vol. 85, nos. 15/16, pp. 363-391 (August, 1937).

[12] See *Source Book*, IV, pp. 25-34, for the measures taken by the National Socialist government for "the restoration of the professional civil service." In these acts and orders will be found the detailed provisions which were used to "purge" the service of all unreliable elements.

case, the German civil service was not ruined although it was certainly damaged by the National Socialists. For political neutrality was substituted party reliability. Every official now must take an oath of personal loyalty to the *Führer* and to *Heil Hitler* both in his office and out of it.

These National Socialist changes in the German civil service did not in any way weaken the bureaucracy as a fundamental institution of the German state. Like the army, the civil service continues to be "a fundamental pillar of the National Socialist state." [13] Without it, one may say without hesitation, Hitler could not possibly have transformed Germany so completely and efficiently to the National Socialist way of life. It is therefore important to understand the factors which have made the German civil service such an efficient and vital element in the administration of all German governments.

A perusal of the new civil service act, which represents a modernization of old, well-established procedures and forms rather than the creation of an entirely new system, will indicate some of the reasons for the excellence of the German civil service. First of all, the official is guaranteed his position for life. Of course, he is always subject to disciplinary procedures for failure to perform his duty, but he cannot be removed or demoted without just cause as determined by a court. This great security which surrounds the German official has permitted the development of a real career service.[14]

In the second place, a relatively high standard of compensation is provided. Quite in contrast to American practice, adequate salaries, supplemented by location allowances are given. Married officials are also given a supplement which is increased if they have children. They are also favored

[13] These are the words of the preamble to the new law and have been used by Hitler and others to emphasize the position of the civil service.

[14] In Article VI procedures are laid down which, in their solicitude for the official as well as for the good of the public service in general, are not to be equalled in any personnel system. When an office is abolished or combined with another, for instance, the officials concerned may be transferred to inactive status. They remain, however, as officials subject to call (*zur Dienstverwendung*) and receive full pay for three months, after which their inactive pay amounts to eighty percent of the pensionable salary.

in the tax system as against unmarried officials.[15] In addition, it should not be forgotten that the salary is not the only material compensation for service, inasmuch as there are accident and disability benefits, and retirement allowances for both officials and their dependents. A careful reading of sections 67 to 125 of the civil service act are necessary if one desires to have a complete appreciation of the thoroughness and fairness of German retirement and disability provisions. But in a word, any official who has completed his sixty-second year may be retired at his own request even without proof of his inability to continue in the service. Up to June 30, 1940, this may also be done at the completion of the sixtieth year. In any case, officials are to be retired regularly when they reach sixty-five, or earlier if because of weakness of their physical or mental powers they are permanently incapable of fulfilling their duties. When retired (*im Ruhestand*), officials are entitled to a pension which is computed on the basis of the pensionable service salary and the pensionable term of service. The pension policy continues to be liberal, and the pension paid may amount at most to 75 percent of the pensionable service salary, plus a location allowance and a possible additional grant for dependent children. In the case of death of a civil servant, the widow and the surviving dependent children receive pensions. The pensions are paid from the treasury without contributions from the officials. Accident and disability benefits of a very generous sort are also provided, and consist of a course of treatment, or of a retirement pension if the person has become disabled for service, or of a benefit pension to his survivors if the official has died as a result of the accident. All of these provisions are of great importance in attracting to the public service the highest type of candidates.

In the third place, only the ablest candidates have a chance of being admitted to the public service. The basic requirements which the law demands of those who wish to become officials are the following: (a) the applicant must be of German or related blood—if he is married, the same requirement is made of his wife; (b) he must be a citizen; (c) he

[15] See Pollock and Boerner, *op. cit.*, pp. 48-54, for the schedules of salary groups in the German civil service.

must possess the training for his position required by regulations; and (d) he must give assurance that he is ready at all times to act unreservedly in the interests of the National Socialist state.

This last mentioned requirement puts the party seal on the civil service. Henceforth a civil servant is not only a servant of the state; he is also a servant of the National Socialist idea which is borne by the state, and also of the National Socialist party which forms a unity with the state. Furthermore, "the German official stands in a relationship in public law of service and fidelity to the *Führer* and to the Reich." The official is bound to the *Führer* personally by his oath of loyalty and obedience, and this loyalty and obedience to the *Führer* continues until death. Even after retirement, loyalty to the *Führer* must continue.

The official must also "be ready to intercede unreservedly at all times for the National Socialist state, and to be guided in his whole conduct by the fact that the National Socialist German Worker's Party in indissoluble union with the *Volk* is the bearer of the German idea of the state. He must bring actions which might endanger the position of the Reich or of the National Socialist German Worker's Party to the attention of his service superior, even if they have not become known to him in the course of his official duties."

Furthermore, it must be clear that the official is acceptable to the party before he is appointed to office. This appears to resemble the present American plan in Washington of "political clearance." If the official is ousted from the party or ceases to give assurance of acting at all times in the interest of the National Socialist state, he cannot remain as an official. In order to bring about the closest possible cooperation between the authorities of the state and of the party, the Deputy Leader is given power in several respects. Finally, no permission is necessary for an official to accept an unpaid office in the party. Through all of these provisions the unity of party and state is assured and the close cooperation of the official with the *Führer* and the party is guaranteed.

When these above requirements have been fulfilled, the official (a) at the end of his twenty-seventh year—in the case of female officials, it is the thirty-fifth year, and (b) after

the completion of the prescribed or customary or probational service, and (c) after he has passed the prescribed or customary examinations, and (d) after he is assigned to a classified office which is to be filled—then and only then becomes "an official for life."

No diminution in the entrance qualifications of officials has occurred. On the contrary, under section 164 of the new civil service act, the Government has issued new orders which provide uniform requirements and training for candidates desiring to enter the public service.[16] Candidates desiring to enter the judicial service had already been covered by the act of 1934.[17] Henceforth, all prospective officials must pass two examinations, one after academic training (*Hochschulstudium*) and one at least three years later after the completion of an interneship in the courts and in the administration (*Vorbereitungsdienst*). A new office in the Ministry of the Interior is created to have charge of the training program and to handle and control the second examination (*grosse Staatsprüfung*). This does not make the Ministry of the Interior a central personnel agency for the Reich, and in fact no such central agency exists. But the move does go a long way toward securing uniform handling of personnel matters just short of concentrating their complete control in one place.[18]

In addition to these fundamental reasons which explain the nature of the German civil service system, a number of other features should be mentioned. For instance, strong emphasis has always been placed upon unquestioning obedience and complete fulfillment of duty. The new code also requires of the official "love of country, readiness to sacrifice and willingness to devote his entire energies to the state, obedience with respect to his superiors and comradeship with his colleagues. He should be an example of loyal fulfillment of duty to all citizens." It is further required that an official "by his conduct in and outside his official capacity must show

[16] RGB, I, p. 666 (June 30, 1937). These regulations do not become fully operative until January 1, 1940, because of the preparatory training in the administration which lasts two years and five months.

[17] RGB, I, p. 727 (July 28, 1934).

[18] See *Deutsche Verwaltung*, vol. 85, nos. 15/16, pp. 361-363 (August, 1937).

himself worthy of the respect and trust which are given his profession. He may not allow a dishonorable activity to be carried on by a member of his family." He must also be careful to preserve secrecy and not to accept favors or gifts without the permission of his superiors. He is also required to take on supplementary activity and to work overtime.

Liberal vacation periods have always been provided for officials.[19] The higher officials are also generously treated to *Studienreisen* or study trips to other countries in order to broaden their experiences. In their associational activities officials are kept abreast of administrative and technical developments, and the Ministers of Finance and Interior keep a close supervision over the financial and administrative sides of the service.[20] As a result of all of these factors, plus a long tradition of efficient public service, the German civil servant not only has developed a deep respect for his job and for the service as a whole, but he also receives the respect of the citizens and the care and attention of his superiors.

For the first time in German history, the new civil service act applies to *all* German officials. This means the termination of a variety of different legal norms applicable to the officials of the various states, municipalities, and public corporations. There are now in Germany according to the new law, only Reich Officials. If they are not directly in the service of the Reich but are in the service of the municipalities or other corporations of public law, they are "indirectly" national officials. The transfer of officials from one part of the country to another and from one position to another will now be greatly facilitated. The historic significance of this uni-

[19] The number of days of vacation varies with the class of officials and with their age. At forty years, the maximum is reached, and the vacation period amounts to from four to seven weeks. No fixed working hours for officials are set.

[20] Government employees are now organized into a *Reichsbund der Deutschen Beamten.* This association is headed by an official who at the same time occupies the post of leader of the section for officials in the National Socialist party. More emphasis is now given in this association to imbuing officials with National Socialist ideas than to instructing them along professional lines. One should not overlook, however, the newly established Administrative Academies which are connected with the association and which deal with the various problems of administration, especially in evening classes. These academies do not supersede the universities but give additional training to officials already in the service.

fication and systematization of civil service procedures was pointed out by Dr. Frick in his radio speech explaining the law when he said: "A great step has been taken toward the systematization of German law and German administration and the basis for a further transformation of the Reich in the direction of a unified state has been laid."

The following table shows the number and distribution of German government employees as of March 31, 1933.[21]

TABLE SHOWING THE NUMBER AND DISTRIBUTION OF GERMAN GOVERNMENT EMPLOYEES AS OF MARCH 31, 1933

	Officials (including those in preparatory service)	Employees	Workers	Total
Reich	93,341	27,156	39,778	160,275
German railways	277,560	440	212,850*	590,850
Reichspost	233,343	8,280	60,961	302,584
States	333,173	49,025	43,452	425,848
Hansa cities	25,538	13,264	17,141	55,943
Municipalities	257,307	83,739	128,674	369,720
Unions of cities and various public legal corporations	34,838	23,827	33,329	91,994
Total	1,255,298	205,731	536,185	1,997,214

*Including helpers.

From the figures it can be seen that approximately two million government employees were performing services for the people in 1933. It should be pointed out, however, that the largest single group, namely, the employees of the German railways, are never included in the United States or Great Britain in any list showing government employees, for the reason that railway employees in those two countries are not government employees. Now that the former states have been abolished and their officials combined with those of the

[21] This table is prepared from the figures found in *Statistik des Deutschen Reiches, vols. 475 and 496* and from the *Geschäftsberichte der Reichsbahnhauptverwaltung und des Reichspostministeriums.* As Professor Marx has warned us, in *American Political Science Review,* vol. 29, pp. 451-455, civil service statistics of various countries must be compared only with the greatest care. Nevertheless, the above table gives a good idea of employee numbers and distribution in Germany.

Reich, the future figures will show a different arrangement, and in the future all officials will be listed either as direct or indirect national officials.

Under the new civil service act, the civil service now becomes, along with the party and the military, "a fundamental pillar of the national socialist state." Its former political neutrality has been transformed into political reliability and the National Socialists intend that the civil service shall be a well disciplined and effective instrument in the hands of the *Führer*. But Hitler himself has recognized and honored the expert work of the civil service by conferring party membership upon those of his ministers who were not already National Socialists. He did this a few days after announcing the civil service act, and in addition he presented these ministers with the party's order of honor.

In a concluding word we may say that the German civil service is now dressed up in a Nazi garb, and in all fundamental and policy matters follows the Nazi pleasure. But as an institution it has not been seriously weakened, and its members still exert a powerful influence over administrative affairs. In fact, in an authoritarian regime with a state-guided economy their influence is greater. As a service the German bureaucracy continues to deserve the admiration of students of government, as well as the gratitude of the *Führer* for having made his elaborate governmental mechanism function as well as it has.

7. Financial Administration.

The German administrative machine not only possesses a good organization structure and an admirable and well trained personnel to administer it, but it also has a very complete and thorough-going system of general control over the financial affairs of the public household. In no other country except Britain, can there be found a system of financial administration which is so well organized and which operates with such high efficiency. The National Socialists have again been fortunate in inheriting, but also in improving, the efficiency of the German system of handling and controlling public funds. Had it not been for the excellence of the German system of collecting, preserving, and distributing public

moneys, of coordinating revenues and expenditures, and of managing the credit operations of the government, the whole Hitler system might well have gone up in smoke long before this.

Before the war, one could not speak in Germany of a uniform system of financial administration. Even after the promulgation of the Weimar constitution, complete uniformity could not be secured because of the independent position of the states. Only since the abolition of the states has it been possible for the German government to work out a uniform financial system. Today complete legal provisions apply to all phases of financial administration: to budgeting and accounting, to taxation in all of its aspects, and to all phases of administrative and judicial control.[22]

The entire system comes under the control and supervision of the Minister of Finance.[23] It is his duty to furnish the money necessary to carry on all of the activities of the state. Some eighty different functions fall within his jurisdiction. He is assisted by a Secretary of State who performs the duties of the Minister when the latter is absent, and who decides all matters which are not specifically reserved to the Minister. The Ministry proper is divided into five sections as follows: budget, customs, taxation, personnel and salary, and general finance and economic matters.

a. *The Budget System.*

The national budget law deals comprehensively with the formulation and execution of the budget, with treasury management, bookkeeping and accounting, with the auditing of accounts, and with the organization and activities of a special budgetary controlling agency known as the Court of Audit (*Rechnungshof.*)[24] A careful analysis of receipts and ex-

[22] See a recent discussion of this subject by Josef Mayer in *Reichsverwaltungsblatt,* vol. 57, no. 27, pp. 581-585 (July 4, 1936). Also H. Reichard, *Wirtschaftsbestimmungen für die Reichsbehörden nebst einem Grundriss des Reichshaushaltsrechts* (Berlin, 1935).

[23] Karl Groth, *Die Reichsfinanzverwaltung* (Berlin, 1937).

[24] This term has sometimes been translated as Court of Accounts. Its functions are broader than either the word audit or the word accounts would imply. But since the body is primarily an agency for auditing, although not merely this, it seems best to translate *Rechnungshof* as Court of Audit.

penditures was formerly presented both in summary and detailed form in the budget. Estimates are given according to departments and divisions within departments, and also according to the particular objects of expenditure. The budget also contains not merely the net results of financial operations, but also all costs of management, collection, and administration. The Minister of Finance prepares the budget after approving or disapproving the requests of the various governmental agencies, and since 1934, merely promulgates it in abbreviated form without presenting it to the Cabinet or the Reichstag for discussion.[25] In other words, the Minister of Finance under the National Socialists occupies an exceedingly important position, and it is not without significance that the incumbent of this office, Count von Krosigk, is a career man who has held the post since the von Papen cabinet in 1932. Not until 1937 did he become a member of the National Socialist party by special dispensation of the *Führer* on the occasion of the promulgation of the new civil service act.

In the execution of the budget, the law provides that the Minister of Finance shall have extensive powers to provide for the efficient and economical administration of the budget grants. Special budgetary officers are placed in the offices of the higher public authorities and also in the offices immediately subordinate to them. At present it is not too much to say that the Minister of Finance has practically unlimited powers of control over the financial side of administration.

Treasury management and bookkeeping are uniform for the entire administration. The accounting classification is also carefully integrated with the budgetary classification, and in this way it is possible to have a real audit of the accounts and also have efficient budget estimates. A budget grant can be easily traced right through the Court of Audit.

Not content with all of these far-reaching controls, the budget law provides for additional supervision over the entire budgetary administration by the Court of Audit. This power-

[25] The budget document was formerly published in two volumes. But today only some of the figures are available. Discussion of this point appears later, page 121. The Prussian budget is still promulgated separately. See *Preussische Gesetzsammlung*, 1937, p. 13 (March 19, 1937) and *ibid.*, 1938, p. 33 (March 28, 1938).

ful and interesting body is one of the few independent and highest authorities of the Reich, independent of all departments and directly under the *Führer*. It is now combined with the Prussian Court of Accounts and consists of a President and the necessary number of other judges and technical officials, all possessing high educational and practical qualifications for the office. Since the law of 1936, the last vestiges of state budgetary rights have been eliminated and the function of checking all of the accounts of the Reich has been transferred to the Court of Audit.[26] This meant the end of the auditing officials of the states, and since March 31, 1937, uniform budget and auditing provisions have been in force throughout the Reich. Due to this increased burden of work placed upon the Court of Audit, five new branch headquarters have been established in Munich, Karlsruhe, Coblenz, Hamburg and Leipzig. The main office of the court continues to be in Potsdam, and its President, according to the leader principle is given complete supervisory authority over its work.

The powers of this Court are not limited to the auditing of the accounts. In addition to auditing and legal control, the Court exercises administrative control to see that there has been an economical performance of duties.[27] It is also required to check receipts to insure that the nation is securing all the taxes, fees, and other sources of revenue which are due to it. The findings of the Court are now made to the Minister of Finance (formerly to the Cabinet and to the Reichsrat and the Reichstag) who is now empowered to see that the findings of the Court are heeded.[28] All defects in financial administration, all departures from laws and decrees, all accounts which do not properly check are reported, and steps are taken either to recover the monies improperly expended, or measures are formulated to remedy the mistakes which have been made. This final operation in the

[26] RGB, II, 1936, pp. 209 ff, and RGB, II, 1937, pp. 195 ff.

[27] Today the *Rechnungshof*, relieved of its responsibility to Parliament, has become more of an aid to the administration and interests itself more and more in matters of economical and efficient administration. See Arnold Köttgen, *Deutsche Verwaltung* (Berlin, 1937), pp. 240-244.

[28] The court itself may enforce obedience to its orders by suits, and it may also impose penalties and punish failure to carry out its orders.

elaborate budget procedure of having an expert, critical examining body separate from the administration does not supplant the preliminary audit of accounts which is regularly performed by the appropriate authorities, but is in addition to it. Thus every possible safeguard is provided for an economical and accurate handling of public money.

A word by way of summary of German budgetary procedure is desirable. The German system impresses one first of all because of its inclusiveness and completeness; next because of the integration of the accounting system with the budget system; next because of the responsible control exercised by the Minister of Finance over the preparation and execution of the budget; next because of the nature of the control over the whole financial administration exercised by the Court of Audit; and finally because all parts of the system are carefully interrelated, thus producing effective and efficient administration of the nation's finances.

b. *The Tax System.*

The Minister of Finance in addition to being the head of the budget system is also the head of the tax system of Germany. In this connection he manages the national treasury and supervises the vast army of tax officials all over the country.[29] The organization for tax administration consists of three levels of authority: (1) the Minister of Finance; (2) the Chief Finance Presidents, twenty-three in number; and (3) the Chairmen of the finance offices, at present nine hundred sixteen in number. The boundaries of the districts and the jurisdiction of the officials are set by the Minister of Finance.[30] At present it is interesting to observe how closely the boundaries of the finance districts correspond with the *Gaue* of the National Socialist party. Seven finance districts exactly correspond and sixteen districts are nearly identical, being divided into several *Gaue*.[31] The finance districts are

[29] The ministry of finance also contains the administration of the liquor monopoly, the debt administration, and the supervisor of public buildings.

[30] It is interesting to note that even after the consolidation of January 26, 1937 (RGB, I, p. 91) which eliminated forty-two exclaves (areas separated from their own districts by other territory which is under a different authority) there still remained in Germany sixty-six of these separate and administratively unjustifiable areas. Groth, *op. cit.*, p. 30.

[31] Groth, *op. cit.*, pp. 39-46.

grouped into four classes depending upon the population, number of taxpayers, and general commercial importance of the area, and officials of proper rank are placed in charge. On the average seventy-five thousand inhabitants are included in a finance district, a number which permits of adequate administrative supervision by the Chairman of the finance office. Some seventy-five thousand tax and customs and treasury officials are attached to these area and district offices.

The work of the finance offices divides itself into several categories of work. Not only are the taxes and customs collected, but also the control over public buildings, and the accounting and handling of public funds used within the district, are vested in the finance office. The work of assessment and valuation of property for tax purposes, salary matters and general financial control are also within the jurisdiction of the finance offices. Duplication in tax and customs administration is avoided by a consolidation of these two functions in each finance office. We may see, therefore, that through these district offices uniform handling of all the financial affairs of the Reich is achieved.

An interesting feature of German finance administration is the work performed by the various finance courts which are set up in connection with the office of each of the Chief Finance Presidents. The district finance court is a special administrative court in tax matters which stands between the taxpayer and the administration and is intended to protect both. It consists of both expert and lay members, and divides itself into several chambers. In the course of the year 1936, thirty-seven thousand six hundred twenty-five cases were decided by the various finance courts as compared to thirty-eight thousand two hundred ninety cases in the year 1932. This represented 80 per cent of all the cases brought before the courts.[32]

At the top of the tax court structure we find the National Finance Court (*Reichsfinanzhof*) which sits in Munich and which is the highest appellate authority in tax affairs in Germany. This court deals with matters of general tax administration vested in it by law, as well as with disputes involving the application of the tax laws. In the course of the year

[32] Groth, *op. cit.*, pp. 56-57.

1936, the court decided some three thousand cases as compared to some four thousand eight hundred in the year 1932.[33]

To every finance office is also attached an advisory committee in tax matters consisting of officials and citizens in honorary service. This advisory committee constituted by the Chairman of the finance office assists in the determination of property values, and in questions of tax administration where the opinion of well-informed citizens is likely to assist in the making of an administrative decision.

Summarizing tax administration in Germany, one is impressed with the high degree of centralization, with the continuous and effective control under which all parts of the gigantic tax machine are held, as well as with the well formulated and detailed provisions of the tax laws and decrees. Furthermore the work is without exception placed in the hands of experts with special training, and where work of a judicial nature is involved, only the most important and most experienced officials are permitted to function. Routine business is given to those with less experience and training. When purely legal questions are involved, the special set of tax courts comes into play, and an effective and fair means of settlement of tax disputes is provided. In those fields where lay opinion is useful, citizens are brought into the tax picture and assist the administrators in such matters as assessments, refunds, and protests. The general administrative efficiency of the tax administration may be judged from the figures of administrative costs which in a period of the last ten years have not exceeded 5 per cent. In 1936 the figure was only 3.97 per cent.[34]

In the last few years striking changes have been made in the German tax structure. Under the Weimar republic, the states retained such control over tax matters as was not expressly taken over by the Reich. The great problem of fiscal arrangement and distribution (*Finanzausgleich*) between the states and the Reich occupied much time and attention. To-

[33] Groth, *op. cit.*, pp. 114-115.

[34] Groth, *op. cit.*, p. 111. Quite in contrast to French and British practice, a very adequate supply of mechanical equipment is available for the use of finance officials. Some sixteen hundred adding machines and fifteen hundred calculating machines are used.

day, however, the states no longer have any tax independence and all legislation is enacted by the Reich. Hence the problem today is dividing the revenues within a unitary state, namely, between the national government and its local subdivisions.

The tax reforms of 1934 and 1935, together with those of 1936 and 1937, have taken Germany a long way toward a completely unified and integrated system of taxation. By these reforms great simplification of the tax laws has been brought about. In some fifteen different tax laws the National Socialists have established uniformity in taxing principles in place of the diversity formerly existing under sixteen different state laws. Beginning with April 1, 1937, for instance, a national trade tax law, which supplanted sixteen former state trade tax laws, became effective. Similarly on April 1, 1938, the new real estate tax law became operative.[35] A new national assessment law now uniformly regulates all assessment for tax purposes. A total revision of the land cadaster has been ordered. This cadaster is a detailed description of all agricultural land in the country which gives information about the situation and measurement of landed estates, productivity of the soil, normal use, etc.[36]

These are some of the most important changes which have been accomplished under the Nazi regime. The flow of legislation in this field continues and may well be of even more far-reaching importance. Clearly a final determination of the proper sources and allocation of funds between the Reich and the municipalities is something which will have to be worked out gradually under the press of conditions and after a complete reform of rural local government is accomplished. National Socialist ideas of taxation are embodied here and there in the new tax laws, as for instance in the provision for family exemption now introduced into the property tax law, and the higher taxes on unmarried persons and persons having no children or only a few children. But the chief stress has been laid upon provisions which help to reduce unemployment.

The following table prepared by a special investigator of the National Industrial Conference Board gives a very good

[35] See *Commerce Reports*, 1937, no. 11 (March 13, 1937), p. 214.
[36] *Tax Magazine*, vol. 13, no. 12, pp. 705 ff. (December, 1935).

idea of the principal sources of revenue over a period of years.[37] It will be noted that there has been a steady increase in the productivity of taxes under the Hitler government, and it is not too much to say that this increase which has been of such fundamental importance to the continuance of the regime is in part due to the increased efficiency resulting from simplifications, unified administration, and absence of popular control.[38] The increase of 76 per cent or five

INCOME FROM TAXES AND CUSTOMS DUTIES, FEDERAL GOVERNMENT, 1932–33 TO 1936–37[1]

SOURCE: *Statistisches Reichsamt*

In Billion RM

Item	1932-33	1933-34	1934-35	1935-36	1936-37[2]
Income and property taxes	2.11	1.93	2.45	3.49	5.17
Income tax	1.33	1.29	1.72	2.50	3.40
Corporation tax	0.11	0.21	0.32	0.59	1.25
Taxes on turnover and property transfers	1.56	1.74	2.16	2.33	2.61
Transportation tax	0.35	0.40	0.35	0.35	0.39
Consumption taxes	1.51	1.72	2.11	2.23	2.31
Beer tax	0.26	0.24	0.27	0.28	0.29
Liquor tax	0.74	0.15	0.18	0.21	0.23
Tobacco tax	0.76	0.74	0.80	0.81	0.84
Sugar tax	0.29	0.28	0.30	0.31	0.32
Customs	1.10	1.11	1.07	1.15	1.27
Total	6.65	6.85	8.21	9.65	11.75
Grants to states and municipalities	1.68	1.81	2.39	2.39	3.00
Federal government share	4.97	5.04	5.82	7.26	8.75

[1] Fiscal years ended March 31.
[2] Estimated.

[37] *Economic Development of Germany under National Socialism,* Report of the National Industrial Conference Board by Vaso Trivanovitch (New York, 1937), p. 133.

[38] In August, 1935, the first government finance training school was opened in Herrsching. Training schools for customs officials were opened the same year in Velten, Waldenburg, Lauf, and Velen. Another finance school was opened at Ilmenau in 1936. All of these schools are under the direction of the Chief Finance Presidents in whose jurisdiction they lie, and are devoted to systematic instruction in problems of financial administration. Groth, *op. cit.,* p. 18.

billions marks in tax collections from 1932 to 1937 has saved the financial structure of Germany,[39] and the expected yield of taxes for 1937 is likely to reach fourteen billion marks or an increase of three and one-quarter billion marks over the previous year.

8. Public Finance.

The German government formerly published the text of the budget together with an analysis of the details of the budget. But in 1935 no budget was published, and a law of March 29, 1935, provided that the funds for the various government departments could be determined by the cabinet or by the Minister of Finance in agreement with the ministers concerned. In 1936 a law was promulgated which provided that the law of the previous year should apply to 1936. In 1937 a similar law passed by the cabinet did not divulge any of the figures relative to the estimates of receipts and expenditures. The law of March 31, 1938, follows this customary practice and merely authorizes the government departments to undertake the necessary expenditures according to unpublished appropriations to be fixed in conjunction with the Minister of Finance, pending the completion of the budget.[40]

Today the only figure relating to German public finance which is still published is the figure of revenue from taxation given in the previous table. No official, and very little reliable information is available on the following points: (1) revenue from sources other than taxation; (2) total expenditures; (3) amount of the budget deficit; and (4) amount of short term debt incurred to cover this deficit. The most satisfactory and reliable figures now available on the expenditures and indebtedness of the Reich are to be found in the follow-

[39] Report of the National Industrial Conference Board, *op. cit.*, p. 140.

[40] RGB, II, 1938, p. 97. This provisional budget law was not made applicable to Austria. Probably the addition of Austria to the Reich accounts for the delay in promulgating a final budget law before the beginning of the fiscal year. A separate Prussian budget was promulgated. *Preussische Gesetzsammlung*, no. 7, p. 33 (March 28, 1938). The ordinary Prussian budget amounted to 1,953,680,950 RM, and the extraordinary budget to 48,525,000 RM.

ing tables prepared by Vaso Trivanovitch for the National Industrial Conference Board.[41]

EXPENDITURES OF THE FEDERAL GOVERNMENT, 1929–30, 1932–33, AND 1936–37
In Million RM

Item	1929-30	1932-33	1936-37
General Administration, Justice and Police	898.3	846.3	1,050.0
Military expenditures	757.5	629.5	7,000.0[1]
Welfare and health	1,307.4	1,501.2	750.0
Industry and transport	343.2	388.5	390.0
Debt service	630.6	526.0	680.0
War charges	4,043.3	1,735.2	1,600.0
Other	63.0	108.5	1,000.0[2]
Total	8,043.2	5,735.1	12,470.0

[1] Including storm troops.
[2] Including agricultural aid.

These figures show a material decline in the cost of unemployment and welfare relief and an increase in payments on the debt. Expenditures on administration, housing, education, industry and transport have not materially increased.

INDEBTEDNESS OF THE FEDERAL GOVERNMENT, END OF MARCH, 1932 TO 1936
In Million RM

Types of Debt	1932	1933	1934	1935	1936
Domestic, total	8,777	9,457	12,078	15,120	19,095
Long-term	7,200	6,997	6,790	6,340	7,051
Short-term[1]	1,577	2,460	5,288	8,780	12,044
Foreign, total	3,215	3,037	1,870	1,758	1,738
Long-term	2,690	2,608	1,613	1,570	1,550
Short-term	525	429	257	188	188
Total debt	11,992	12,494	13,948	16,878	20,833

[1] Includes tax-redemption certificates in circulation or held as security by the Reichsbank and the following amounts of work-creation and armament bills in circulation, all of which were issued by the federal government, but some of which are the obligations of the states, municipalities, the Postal Administration, and the Railway Company: March, 1934, 1.5 billion RM; March, 1935, 4.5 billion RM; March, 1936, 6.5 billion RM. The amounts of guaranteed obligations were 900 million RM on March 31, 1934, and 2.5 billion RM on March 31, 1936.

[41] *Op. cit.*, p. 136 and p. 139.

Payments on war debts and pensions and hospitalization appear to have been slightly reduced. When taken with the great increase in the tax yield, the reduced expenditures for relief indicate how it has been possible for Germany to finance its rearmament program largely out of current income and funds received from long term loans.

It may also be seen that the increase in the public debt appears to be much smaller than is generally supposed. As shown in the table of indebtedness, the total debt rose from twelve and one-half billion reichsmarks in 1933 to nearly twenty-one billion in 1936. This was nearly all an increase in the short term debt. No dangerous increase in the public debt seems to have been made considering the size and economic importance of the country.

9. *Administration of Economic Enterprises, Business, Exchange, and Banking.*

Without attempting at this point to picture the extent and nature of National Socialist economic control, it is necessary to mention the administrative structure by which the totalitarian state is able to carry out its program in these fields, and to point out the principles of administrative management which are followed.

Under article 156 of the Weimar constitution the Reich was authorized "to transfer to public ownership private business enterprises adapted for socialization." Furthermore, the Reich itself, the states or the municipalities were authorized to "take part in the management of business enterprises and associations, or secure a dominating influence therein in any other way." Under this wide grant of power, public utilities largely came under government ownership and control.[42] This was the case with railways, canals, waterways, the post, telephone and telegraph, electricity, local waterworks and other enterprises. Even coal, iron and potash were brought under quasi-public management. Municipalities also interested themselves in a variety of other economic enterprises. With the advent of the National Socialists to power, the gov-

[42] See Blachly and Oatman, *Government and Administration of Germany* (Baltimore, 1928), chs. 16 and 17.

ernment decided not to take over business organizations directly but rather to extend the control of government agencies over all phases of economic life. New controls were provided and the whole corporative structure was built up, but private ownership and management continued.

No one method has been followed in Germany for the ownership of, and control over economic enterprises. In the case of the post, telephone, telegraph, and radio there is complete national ownership and management through the Post Office. A similar monopoly is held by the *Lufthansa* over aviation. The railways, which are the largest single operating corporation on the European continent, have now been incorporated directly into the national administration, and their head has been made Minister of Transportation. Each of these three enterprises comes under the control of a separate ministry. In some cases governmental units act as shareholders, in others the government participates in the management of the industry, and in others the government provides advisory and expert authorities to assist the managers of enterprises deemed to be of such importance that the public interests must be protected.

In contrast to the United States, no independent regulatory commissions, outside of and independent of the regular government departments, have been created. Councils, boards, and administrative courts exist, but superior control is always given to some one or more of the Ministers. Thus it is possible for the Reich through the cabinet and the individual ministers to be in a position of direct control over businesses affected with a public interest, and to integrate the policies of the various government-controlled enterprises, as well as to regulate effectively in the public interest, the activities of business.

Various kinds of administrative machinery have been created to handle different types of problems. The National Economic Court attached to the Ministry of Economics, for instance, exists to deal with "the misuse of situations of economic power." Recently reorganized, this court gives the government a much more direct and speedy method of controlling and regulating "Big Business" than is provided in the United States under the Sherman Act and the Federal Trade

Commission Act.[43] Exchanges are controlled directly by the Minister of Economics. The Reichsbank directorate, formerly independent, is now brought directly under the *Führer*. A glance through the *Handbuch für das Deutsche Reich* will suffice to show the numerous economic functions and controls placed under the direct administrative authority of the various government departments.

10. Public Corporations.

There are a large number of public law corporations in Germany which have been created to handle a wide variety of functions.[44] Today all juristic persons of public law are called corporations. Various religious associations, universities, charitable and improvement associations, and business, transportation, forest and social insurance groups have been set up as public law corporations so that they could exercise greater regulatory powers than ordinary corporations. As long established institutions of German administrative law, these corporations are brought under the administrative control and direction of individual government departments. The railways, certain banking and currency associations like the conversion office for German foreign debts, the Academy of German Law, the Union of Cities, the National League of German Hunters, the National Press League, the National Culture Chamber, and various shipping, waterway, and flood control associations are illustrations of the wide use which is made of this convenient institution. Because of the differing functions which these corporations perform, there is no one particular form of organization which they possess. A corporation of public law, under existing provisions, may have members, as in the case of the League of German Hunters; or the members may be other corporations of public law as in the case of the different chambers belonging to the National Culture Chamber. It may have jurisdiction over the whole Reich or be limited to a particular area. It may be required to perform certain duties or it may possess voluntary powers to be exercised when desired. But all cor-

[43] See footnote 6 on page 98.

[44] See Theodor Maunz, *Verwaltung* (Hamburg, 1937), pp. 54-65, for a recent treatment of this subject.

porations of public law are supervised by the state, and they exercise state power which has been delegated to them. Although the National Socialist party is called "a corporation of public law," Dr. Frick, the Minister of the Interior, has been careful to point out that the party is *the* corporation and belongs to constitutional and not administrative law.

11. Planning.

The National Socialists have created a new administrative agency which is called the National Office for Organizing Space (*Reichsstelle für Raumordnung*).[45] This new office has been given broad powers to reorganize the distribution of population in Germany, especially to stop the drift westward, to construct settlements in uninhabited areas, to select centers for raw material industries and manufacturing plants, to open up unused sources of power and to improve the use of badly applied sources.[46] In short, as the decree states, the new office is "to attend to the ordering of the German living room in keeping with the requirements of people and state." Planning areas have been set up and consist of the districts under the National Governors, the Prussian provinces, the Saar, the city of Berlin, the Ruhr coal mining area, and Austria. In these areas planning societies have been formed to be responsible for the preparatory work on all planning schemes. These societies include representatives of the party, of the administration, of the army, and of the various corporative and business organizations.

Although the government disclaims any intention of developing a thorough-going planned economy (*Planwirtschaft*), the Commissioner for the Four Year Plan has issued an order which associates the planning office in the selection of building sites for factories. In another case, the cultivation of the

[45] RGB, I, 1935, p. 793 and p. 1515. Its jurisdiction was recently extended to Austria.

[46] The act creating this office is in addition to the acts of 1933 and 1934 (RGB, I, 1933, p. 659, and RGB, I, 1934, p. 568) which authorized local authorities in cooperation with the Minister of Labor to work out plans for residential settlements. It is also in addition to the whole land settlement program which is being handled partly as a work creation program and partly as an aid to agriculture. The National Socialists have made it one of their foremost aims to bring about a better distribution of population between rural and urban areas.

Ems territory, the planning office has been commissioned with the execution of the task. It is to be expected that the national planning office and its subordinate area offices will more and more be consulted in all matters of areal relationships, and that they will also make more extensive use of their right of protest in those instances where the rights of "the national community" do not appear to be observed.[47]

Extensive research in soil improvement, traffic and power, national resources, and other technical fields associated with planning in the broad sense, is being carried on, and in due time a new form will be given to the German countryside.[48] To date much exploratory work has been done, but extensive measures for the reorganization of space have not yet been consummated. Nevertheless, planning and use of space have now become primary government functions which hereafter will be administered by the planning office directly under the *Führer* without the supervisory control of any department. Minister Kerrl heads the new office.

[47] See *Deutsches Recht*, vol. 7, nos. 3/4, pp. 49-51, for an authoritative article on this subject by an official of the new agency. Also *ibid.*, pp. 315-318.

[48] Herr Gottfried Feder, formerly the close confidant of Hitler in the early days of the party, but now the secretary of state in the new planning office in charge of land settlement, said recently in a speech: "The modern city spells the death of the nation. The constant influx of population into the city brings the greatest dangers to national growth and development in its train. . . . This question confronts us with great legislative difficulties but at the same time opens up possibilities of splendid architectural achievements. Fundamental questions concerning the control and supervision of building will have to be subjected to a thorough-going revision, while the creation of a universal building law for the whole Reich will be an urgent necessity. In my opinion, the decisive turning point will be the creation of new cities, new country towns, and new provincial towns on a secure economic basis. . . . The creation of each new town will be an exceedingly interesting national and economic problem."

CHAPTER VI

DISTRICT AND LOCAL ADMINISTRATION

Germany has developed a unified will, but it has not yet been able to construct a completely unified administrative apparatus. When the *Führer* speaks, all authorities from the top to the bottom of the administrative ladder jump into line and perform according to orders. But the orders do not follow a particularly logical line of authority, and they must sometimes go over the desks of many different officials in many different administrative areas. In other words, considerable diversity still exists in Germany in the way in which different orders are carried out in different parts of the country.

1. The Liquidation of the German Länder.

Probably the most important and lasting single legislative achievement of the Third Reich was the law for the new structure of the Reich.[1] This act provided that "the rights of the states are transferred to the Reich" and "the state cabinets are subordinate to the national cabinet." This made Germany a unitary state in the legal sense, but the elimination of the states as sovereign entities did not, and has not to this day, meant the elimination of state administration with all of its diversities, and the consequent development of a unified administrative machine in the territorial sense. Today state administrative authorities still exist. A list of them under the heading of *Landesregierungen* or state cabinets is found in all official publications. And even though these state authorities now issue laws or decrees only in the name of the Reich, and must secure the consent of the competent

[1] See *Source Book*, IV, p. 16. Also Wells, "The Liquidation of the German Länder," in *American Political Science Review*, vol. 30, pp. 350-361.

national minister, they still exist, side by side, with direct national authorities and cause a certain amount of double work.[2]

As we have seen, some simplification has been secured by creating the new office of National Governor, and by consolidating the sixteen states and Austria into thirteen districts under these new officials.[3] But the size and importance of the districts under the National Governors varies so greatly that no uniform administrative plan can be followed. In some few cases, the National Governor is at the same time head of the state cabinet. But in the majority of cases, the state cabinets, varying in structure and organization, are not combined with the National Governors and hence become a separate subordinate national authority carrying out national orders but at the same time functioning for state purposes. The state law gazettes in Prussia, Bavaria, Baden, and Saxony are still published, although with decreased frequency.

The former conflict between Prussia and the Reich has also been largely eliminated first by the combination of all the Prussian ministries save one, finance, with the appropriate national ministries, and second, by Hitler reserving to himself the title of National Governor in Prussia, but in fact delegating his powers in this regard to the Minister-President of Prussia, Field Marshal Göring. Another action, previously referred to, namely, the development of the office of Prussian Chief President into one of direct national authority, has also contributed to the elimination of the duplication and confusion which formerly existed.[4] However, Prussia still

[2] *Zeitschrift für die gesamte Staatswissenschaft*, vol. 97, pp. 462-498 (1937).

[3] At the present time, the following sixteen states, arranged according to size, exist as administrative areas: Prussia, Austria, Bavaria, Württemberg, Mecklenburg, Baden, Saxony, Thuringia, Hesse, Oldenburg, Brunswick, Anhalt, Lippe, Hamburg, Schaumburg-Lippe and Bremen. Oldenburg and Bremen are united in one district under a National Governor, and the same is true with Brunswick and Anhalt, Lippe and Schaumburg-Lippe. The sixteen states, therefore, constitute thirteen districts under National Governors.

[4] This office although similar to that of a National Governor must be differentiated from it. A Chief President is still a Prussian official; a National Governor is, of course, a national official. A Chief President is primarily an administrative officer; a National Governor is essentially a political officer. A Chief President comes under the general civil service act; the National Governor under the law of national ministers.

exists as an administrative area. It has a Minister-President and a cabinet. The cabinet, it is true, seldom meets, and is now composed of seven national cabinet members plus the Prussian Minister of Finance and the Minister-President. But it has not been supplanted or superseded. Furthermore, as will be pointed out presently, Prussia, being so large when compared to the other German states, has a system of district and local administration which is peculiar to itself, and which is not tied into the national administrative structure at all points.

Thus we see that state administration through the elimination of the sovereign rights of the states has been subordinated to national administration, and the creation of the National Governors has made the first step toward a unified intermediate national authority. The unification of Prussia with the Reich has also eliminated most of the duplication which formerly existed. Direct national authorities, however, still work side by side with state authorities (who are now made indirect national officials) thus preserving a double administration.

2. *Administrative Centralization under National Socialism.*

At the present time a number of significant moves toward a unified and centralized administration may be recorded. First of all, in the districts of the National Governors, and in the provinces under the Prussian Chief Presidents, we can perceive the beginning of a logical grouping of areas. These areas plus the Saarland and Austria, both of which have been placed for the time being under a National Commissioner, and a National Governor and a National Commissioner respectively—presumably pending a complete rearrangement of the administrative areas of Germany—could well constitute subordinate national areas of administration. With slight changes in the statutes, the highest administrative authority in each one of these areas could be granted the same powers as every other similar authority, could be given a uniform title, and could be an intermediate officer of general national administration.

In the next place, the National Socialists have been able

to bring about certain desirable consolidations of areas which were formerly separated.[5] The two states of Mecklenburg-Schwerin and Mecklenburg-Strelitz were combined.[6] The three parts of Oldenburg have been consolidated, so that now this tiny state no longer reaches up to the Baltic to its former territory of Eutin, or down to the Rhine to its former area of Birkenfeld. The former free city of Lübeck has been consolidated with Prussia, and a consolidation of the territories around Hamburg has produced a greater Hamburg and has eliminated much territorial confusion, a number of exclaves being eliminated in the process.[7] In Hesse three provinces have been eliminated and their administration taken over directly by the state administration. Finally, in Prussia the two former provinces of Upper and Lower Silesia have been combined into one province of Silesia; the former province of Grenzmark has been combined with the province of Brandenburg; and one county has been eliminated and one administrative district created.[8]

In the third place, the administration of certain Reich functions has been entrusted to direct national officials who report to their central superiors in Berlin without coming under the general jurisdiction of the intermediate national authorities, namely, the National Governors and the Prussian Chief Presidents. This is true, for instance, with the administration of justice, and with the army and the air force.

In the fourth place, direct national officials administer such functions as finance, labor, and welfare through an exclusively national administrative apparatus whose lines of administrative control run directly from a local finance office, for instance, up through a district finance office to the Minister of Finance. The only power possessed by the National Governor in these instances is the power of being informed by the district offices. The National Governor does not exercise a direct administrative supervision over such officials. They are controlled by their respective ministries in Berlin. In

[5] See Otto Koellreutter, *Deutsches Verfassungsrecht,* 3rd edition, pp. 95-98.

[6] Pollock and Heneman, *The Hitler Decrees,* 1st edition, p. 82.

[7] RGB, I, 1937, p. 91.

[8] PrGS, 1938, p. 29. These changes are effective October 1, 1938. See *Reichsverwaltungsblatt,* vol. 59, pp. 279-284.

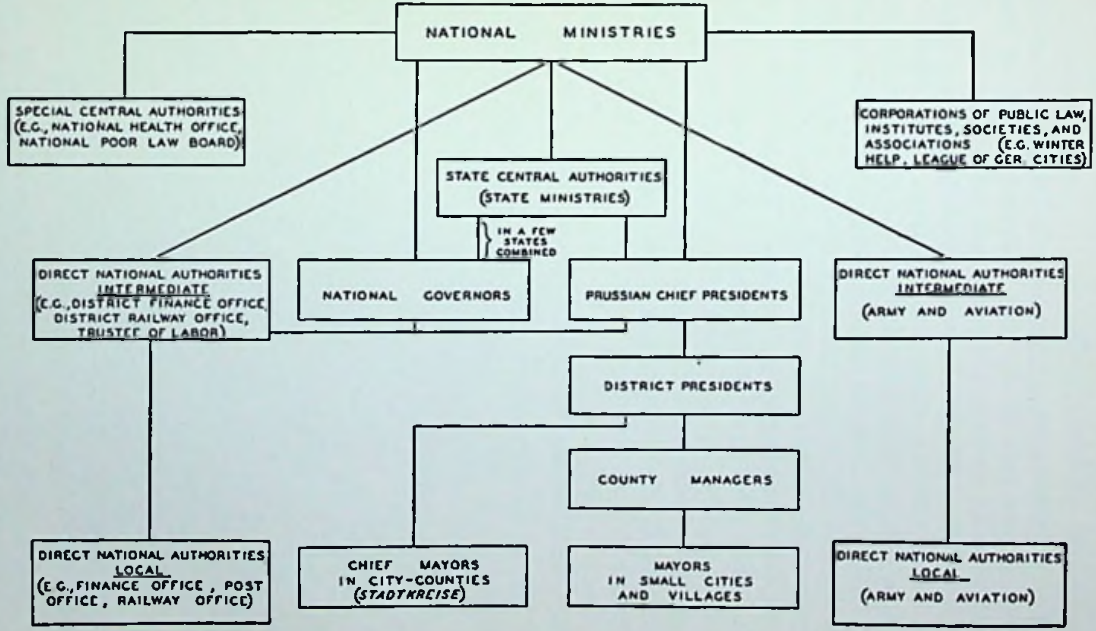
other words, the intermediate national authorities of general administration, namely, the National Governors and the Chief Presidents, do not have complete and exclusive general administrative power within their respective districts.

In the matter of administrative areas for different functions, there is still considerable diversity. Clearly an incomplete but somewhat illogical areal pattern is before us. For purposes of financial administration, the Reich (exclusive of Austria) is divided into twenty-three districts. Railway administration is divided into twenty-seven districts, post office administration into forty-one, labor into fourteen, and welfare into eleven. Propaganda work is divided into thirty-one districts, and aviation into fifteen. The army is organized into twelve army districts.[9] In this field of administrative areas, therefore, as in the matter of administrative organization, Germany still has a number of serious problems to settle. The following chart is intended to clarify the present somewhat complicated administrative picture.

Between the top state authorities and the municipalities, the formerly existing areas with their administrative authorities have been continued. These lesser subdivisions of the former states vary in number and nomenclature from state to state. In Prussia there is a three-fold division: into provinces, administrative districts, and counties.[10] In Bavaria, Saxony, Baden, and Hesse there is a two-fold division: in Bavaria into county governments (*Kreisregierungen*) and district offices (*Bezirksämter*); in Saxony into counties (*Kreishauptmannschaften*) and districts (*Amtshauptmannschaften*); in Baden into commissioner districts (*Landeskommissarbezirke*) and district offices (*Amtsbezirke*); and in Hesse into provinces (*Provinzen*) and counties (*Kreise*). All of the other former German states have but one set of authorities between the ministers at the top and the municipalities at the bottom, referred to variously as offices or counties.

[9] Medicus, "Reichsverwaltung und Landesverwaltung," in *Die Verwaltungs-Akademie*, vol. 2, no. 23, p. 17.
[10] See Medicus, *op. cit.*, pp. 29-39.

Chart of German Administrative Organization


NATIONAL MINISTRIES
SPECIAL CENTRAL AUTHORITIES (E.G., NATIONAL HEALTH OFFICE, NATIONAL POOR LAW BOARD)
CORPORATIONS OF PUBLIC LAW, INSTITUTES, SOCIETIES, AND ASSOCIATIONS (E.G. WINTER HELP, LEAGUE OF GER. CITIES)
STATE CENTRAL AUTHORITIES (STATE MINISTRIES)
IN A FEW STATES COMBINED
DIRECT NATIONAL AUTHORITIES INTERMEDIATE (E.G., DISTRICT FINANCE OFFICE, DISTRICT RAILWAY OFFICE, TRUSTEE OF LABOR)
NATIONAL GOVERNORS
PRUSSIAN CHIEF PRESIDENTS
DIRECT NATIONAL AUTHORITIES INTERMEDIATE (ARMY AND AVIATION)
DISTRICT PRESIDENTS
COUNTY MANAGERS
DIRECT NATIONAL AUTHORITIES LOCAL (E.G., FINANCE OFFICE, POST OFFICE, RAILWAY OFFICE)
CHIEF MAYORS IN CITY-COUNTIES (STADTKREISE)
MAYORS IN SMALL CITIES AND VILLAGES
DIRECT NATIONAL AUTHORITIES LOCAL (ARMY AND AVIATION)

3. *Prussian Administration.*

The predominance of Prussia is indicated by the fact that it has 52 per cent of the area and 54 per cent of the total population of Greater Germany, including Austria. Its administrative areas are of more importance than those of all the other German states put together. But instead of its being a compact land mass, it spreads out in the words of one authority "like an amorphous jellyfish, encircling completely small states like Anhalt, crushing the borders of larger states like Saxony, creeping into the very heart of others like Hamburg, and confounding the boundary line of still others like Brunswick with some eight types of separated exclaves and enclaves, of exclusive, partial, and mixed sovereignty, totalling 200 or more." [11] The government structure of this big, sprawling Prussian state, therefore, requires a good deal of attention.

a. *The Minister-President.*

The Minister-President stands at the head of the whole state administration.[12] He exercises on behalf of the *Führer* the functions of a National Governor in Prussia, but he is not under the supervision of the Minister of the Interior like the other National Governors. He is solely responsible to the Chancellor. The personal legal position of the Minister-President is the same as that of the national ministers since he has been brought under the provisions of the national ministers law. The state ministers are appointed by the *Führer* on proposal of the Minister-President.[13] Field Marshal Göring is Minister-President and as the representative of the *Führer* exercises the usual executive powers of appointment of officials, the preparation and promulgation of laws, and the power of pardon for state offenses. He also exercises powers expressly granted to his office. He is the head of the entire state administration, and he is the highest authority

[11] Albert Lepawsky in *American Political Science Review*, vol. 30, p. 334.
[12] See Gerhard Tech, *Der Preussische Ministerpräsident* (Greifswald, 1935).
[13] All of them except the Minister of Finance are simultaneously Ministers of the Reich.

for certain administrative functions such as police. Interestingly enough the criminal and secret police of all the German states come under the leadership and control of the Prussian criminal and secret police.[14]

b. *The Staatsrat.*

The Minister-President is not only advised by the state cabinet, but also by a Council of State (*Staatsrat*). This body has had a long history dating back to 1808. Stein endeavored to make it an advisory body under the chairmanship of the King. Under the republic it was the counterpart in Prussia of the Reichsrat in the Reich, and as such possessed very considerable powers. In the Third Reich under the laws of 1933 and 1934 it has been made a *Führerrat* or advisory council.[15] It is composed of ex officio and appointed members. The first group consists of the Minister-President, the ministers of state and the secretaries of state. The second group is named by the Minister-President from two legally prescribed groups: (a) party officials such as the chief of staff of the *SA*, the leader of the *SS*, and the Prussian district leaders of the party; and (b) representatives of the church, business, labor, science and art as well as "others deserving of recognition because of service to the state and the people." The tenure of the first group is for the duration of their offices; of the second, for the duration of their offices in the National Socialist movement; and of the third, for life. The members of the council occupy a high honorary position, and they enjoy free railroad transportation and are paid a representation allowance amounting to one thousand marks a month unless they live in Berlin in which case the sum is five hundred marks.[16] Under the law "the councillors express their opinions on proposals which come before the council. The council does not vote. The meetings of the council of state are not public." Members of the Prussian Council of State are also members of the provincial councils of the areas in

[14] *Ministerialblatt, Reichsinnenministerium,* 1936, p. 1339, and p. 1343.
[15] Pollock and Heneman, *The Hitler Decrees,* 2nd edition, pp. 8-11, and PrGS, 1934, p. 58.
[16] See Franz Nüszlein, *Der Preussische Staatsrat* (Göttingen, 1934).

which they live, except in the case of the members who live in Berlin.[17]

c. *The Provinces.*

Each of the ten provinces into which Prussia is divided is headed by a Chief President.[18] This important official is appointed by the Chancellor on proposal of the Minister-President.[19] Although he is a trained, career civil servant, he may at any time be retired. He is also one of the leading personalities of the state in the sense of the law to protect the party and state against malicious attacks. The National Socialist revolution has brought great changes in the position of the Chief President. The provincial legislatures and committees were abolished and in their place was created a new provincial council, appointed by the Minister-President, with only advisory powers.[20] At present the Chief President is the permanent representative of the national government in the province, and he is charged with the general supervision of all provincial officials and with the execution of the orders of the national ministries. Since he has assumed the powers of the provincial school authorities, he now appoints, with a few exceptions, the teaching staffs of the higher schools. The former powers of the state culture presidents are also exercised by him. He appoints all provincial officials including the *Landräte* or county managers. Under the new municipal code, he also has wide powers of supervision over municipalities. The same applies to corporations of public law. If he is not the district leader of the party, he must be careful to secure the unity of party with state. He is the President of

[17] Hamburg also has a similar council of state appointed by the mayor and consisting of members of the senate, the secretaries of state, and twenty lay members. See Harry von Rozycki, *Die Neugestaltung Hamburgs* (Hamburg, 1938).

[18] Prussia now has ten provinces as follows: East Prussia, Pomerania, Brandenburg, Silesia, Prussian Saxony, Schleswig-Holstein, Hanover, Westphalia, the Rhine Province, and Hesse-Nassau. The city of Berlin and the territory of Hohenzollern in South Germany have a status similar to a province.

[19] See *Reichverwaltungsblatt,* vol. 59, pp. 193-196, and *Die Landgemeinde,* vol. 44, pp. 155-157. Also Reinhold Lippky, *Der Preussische Oberpräsident* (Greifswald, 1935), and Wilhelm Rathje, *Das Amt der Preussischen Oberpräsident* (Göttingen, 1935).

[20] Pollock and Heneman, *The Hitler Decrees,* 2nd edition, p. 12.

the provincial council with which body he discusses the budget, after he has prepared it. At present, Hohenzollern is the only Prussian territory which does not have a Chief President. In this area his place is taken by the District Presidents in part and in part by the Minister of the Interior.

d. *The Administrative Districts.*

The provinces in turn are divided into administrative districts and are headed by District Presidents. These officials are appointed by the Minister-President in Prussia on delegation from the Chancellor.[21] Outside of Prussia they are appointed by the National Governors. The District President comes directly under the Minister of the Interior. He is on one hand an executing authority for the central government; on the other hand, he is supervisory authority of the lower officials particularly in the counties where he is the direct service superior to the county managers. Under him is a district committee consisting of six members: two named by the state ministry for life, one from the judicial service and one from the administrative service; and four lay members. This committee assists the District President with general administrative matters, gives approval to certain of his important decisions, and is also an administrative court.

e. *The Counties.*

The administrative districts are divided into *Kreise* or counties. The *Landkreis* (literally country circle) is really a union of the areas outside of the large cities, the latter being referred to as *Stadtkreise* or city-counties. The county or *Landkreis* is headed by a *Landrat* or county manager who is appointed by the Chief President of the province. He is a state administrative official and also the supervisor of the local government of his area.[22] He does not control special administrative officials like school and finance officials, who owe direct responsibility to their own ministries. But he is to be informed of their activities and in case of a difference

[21] See Gerhard Sommerfield, *Das Amt des Preussischen Regierungspräsidenten* (1934).

[22] See *Die Landgemeinde*, vol. 43, pp. 523-525.

of opinion between him and one of these special administrative officials, the District President decides the dispute. The state ministry is empowered to combine special administrative officials with the office of the county manager, in order to make a united county authority in certain fields.

At the present time a new code relating to counties is being prepared.[23] This code will attempt to bring the same uniformity to the rural government of Germany as the new municipal code has brought to the municipalities. But the question of the relation between the county and the city has always been a difficult one in Germany, and care must be taken not to destroy any local feeling which may exist. At present there is a wide variation in the size and number of German counties. In the whole of Prussia there are three hundred sixty-one counties with an average population of about sixty-two thousand and an average area of about three hundred twelve square miles. Bavaria has one hundred fifty-six counties with an average population of thirty-two thousand and an average area of about one hundred eighty-seven square miles. The other states show a similar variety. The future county as a union of small villages and rural areas will be difficult to work out. But one point is certain in this forthcoming reorganization, the leadership principle will be followed and the county manager will exercise the powers which are granted without reference to popularly chosen councils or committees.

It should not be forgotten that all of these district and local administrative officials, from the Chief President down to the County Manager, are career men who have been trained for the administrative service. They are a very competent group of officials, and, as circumstances permit, are transferred from province to province to better their positions. Because of the prime importance of the Chief Presidents, the National Socialists have made nearly a clean sweep of these positions and have filled them with members of the party who can be counted on "to intercede unreservedly at all times for the National Socialist state."

[23] See Kurt Jeserich, *Die Deutschen Landkreise* (Berlin, 1937), for a comprehensive treatment of these areas together with proposals for reform. Dr. Jeserich is the head of the *Gemeindetag* or Union of Cities.

4. Municipal Government.

One of the landmarks of National Socialist activity in the governmental field was the promulgation of a new municipal code in 1935.[24] This code, states the preamble, "is intended to call forth the highest possible service of the communes in close cooperation with the party and the Government, enabling them in the true spirit of the creator of municipal self-administration, Baron vom Stein, to contribute toward the fulfillment of the national ideal: to have a united people permeated with a national spirit, where common interests are placed above private interests, and to create a real people's community guided by the best men of the people, giving even the lowliest fellow-citizen interested a feeling of solidarity." Supplanting as it does all previous municipal legislation of the states, this "basic law of the National Socialist state" brings complete uniformity into the field of municipal government. Only the capital city of Berlin is exempted from its provisions. Every *Gemeinde*—a term which includes both cities (*Städte*) and rural villages (*Landgemeinde*)—is included within its provisions.[25] So-called unions of municipalities (*Gemeindeverbände*) such as rural counties (*Landkreise*) and provinces do not fall within its scope. The larger cities, which are called *Stadtkreise* or city-counties, are distinguished from the smaller cities included within rural counties, and are separately listed in one of the decrees issued after the code was promulgated.[26]

Under the new municipal code, the most important official in the government of a city is the Mayor (*Bürgermeister*—or *Oberbürgermeister* in the largest cities). Associated with him is the agent of the National Socialist party, whose powers

[24] See *Source Book*, IV, pp. 34-65, for the text of this important document. Roger H. Wells, *German Cities* (Princeton, 1932), is the best book on pre-Nazi municipal government. Despite the great change, it is still very useful. See also Wells, "Municipal Government in National Socialist Germany," in *American Political Science Review*, vol. 29, pp. 652-658.

[25] "The *Landgemeinde* consists of a single hamlet or village together with the surrounding rural area; or of two or more such villages territorially separated from each other. In many ways the government of the *Landgemeinde* resembles that of the *Stadt*, but as a rule it is simpler in form." Roger H. Wells, *op. cit.*, p. 28.

[26] See RGB, I, 1935, p. 393.

as sole representative of the party, are carefully prescribed in the code. The Minister of the Interior is the highest supervisory authority in municipal matters. (Consult the chart on the opposite page). All of the former organs of representative government have been eliminated, and the Mayor is the leader of the city and is not bound by the other agencies of city government which have been set up to assist him. Both legislative and administrative powers are placed in his hands, and there is no effective local check upon him, although he is at all times under the supervision and control of the higher authorities.

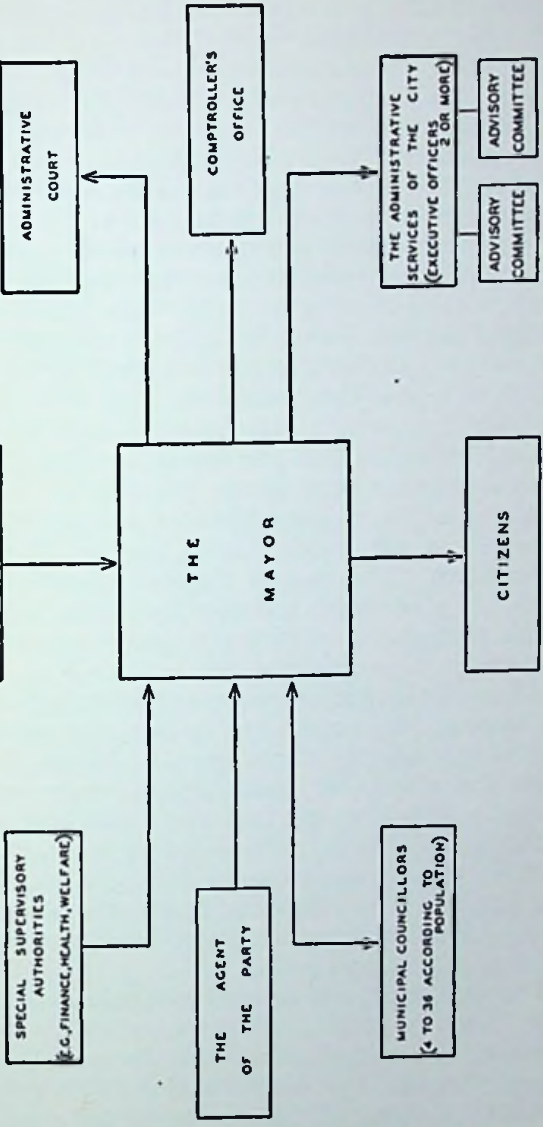
The code provides that "in municipalities of more than 10,000, the position of Mayor or executive officer must be filled professionally." [27] It further provides that "in cities the Mayor or the first executive officer is appointed professionally and must have the qualifications of a judge or administrator." A list of eligible candidates for the mayoral post is prepared by the party agent and submitted to the proper supervisory official. In the case of cities of more than one hundred thousand people this supervisory official is the Minister of the Interior; in the case of cities under this population the National Governor, or in Prussia the District President or the County Manager act in this capacity. When the list of eligible candidates is presented, it is then up to the proper supervisory official to make the appointment to the position. The same supervisory officials may supplant local officials by appointing a special commissioner if this becomes necessary. Twelve years is the term for a Mayor and he is expected to serve a second term unless for unavoidable reasons he is unable to serve again.

The Deputy Leader of the National Socialist party determines who is to serve as party agent in a given community.[28] In most cases the party agent is likely to be the district or county leader of the party. The agent in agreement with the Mayor appoints a group of unpaid municipal councillors

[27] In the smaller villages the mayor and the chief executive officers hold honorary positions. Honorary service has great importance in these villages, and it works side by side with remunerated service. See Johannes Bickel, *Die Praxis der Gemeindeverwaltung* (Berlin, 1936).

[28] Hitler has reserved for himself the powers of party agent in the city of Munich. RGB, I, 1935, p. 470.

CHART OF GERMAN MUNICIPAL GOVERNMENT


GENERAL SUPERVISORY AUTHORITIES (AT THE TOP, MINISTER OF THE INTERIOR)
ADMINISTRATIVE COURT
COMPTROLLER'S OFFICE
THE ADMINISTRATIVE SERVICES OF THE CITY (EXECUTIVE OFFICERS 2 OR MORE)
ADVISORY COMMITTEE
ADVISORY COMMITTEE
SPECIAL SUPERVISORY AUTHORITIES (E.G., FINANCE, HEALTH, WELFARE)
THE MAYOR
CITIZENS
THE AGENT OF THE PARTY
MUNICIPAL COUNCILLORS (4 TO 36 ACCORDING TO POPULATION)

who are called *Gemeinderäte* or in larger cities *Ratsherren.*[29] This body is intended "to keep the administration in close touch with the citizenry" and "to advise the Mayor on their own responsibility and explain his actions to the population." The term of a municipal councillor is six years and the service is honorary. Under one section of the code it is provided that "the Mayor is obliged to discuss important matters of the municipality with the council members" and he must give them an opportunity to express themselves on thirteen important subjects, enumerated in the code, before he can take action. It is further provided that the councillors are "obliged to speak if their viewpoint is different from that of the Mayor" but that they are not permitted to vote.

The Mayor is also assisted by chief executive officers in the larger cities who are appointed by the supervisory authorities on the basis of their professional qualifications after being nominated by the party agent. Provision is also made in the code for advisory committees or deputations of citizens (*Beiräte*) to work with various branches of the municipal government. This follows the earlier practices in German municipal government and constitutes an excellent approach to the problem of enlisting the interest and support of the citizenry in the work of the city.

All in all the new German municipal code does not disturb the scope of local powers as they formerly existed, although it eliminates all local check upon the Mayor. German municipalities within their areas continue to have practically free control, subject of course to budget limitations, over housing, public works, health, municipal enterprises, transportation, libraries, theatres and other cultural activities. Other important functions are administered by the cities under supervision of or delegation from the Reich. Among these are public welfare, schools, and police.

Whether or not one can agree with the National Socialists that "there is genuine self-government," is quite another question. The city does not now choose its own officials although they are at present selected in such a way as to represent local opinion. Responsibility for the administration of

[29] The number varies from twelve to thirty-six depending on the size of the city.

local affairs is placed on the city, and the German Mayor is in an entirely different position than the Italian podesta. As Professor Wells, the leading American authority on German local government has observed: "Whether in practice the new system will give the substance of self-administration remains to be seen. Much depends upon the personality of the burgomaster himself. It is conceivable that a burgomaster of tact and ability may rule in such genuine cooperation with his local advisers and with the citizens generally as to realize Stein's ideal." His conclusion is that "there is some justification for the National Socialist contention that the *Deutsche Gemeindeordnung* does not destroy local self-government, but, on the contrary, aims to build it anew upon more secure foundations so that it may once again recover and bloom as in the nineteenth century." [30]

a. *The Gemeindetag.*

The various associations of local authorities which existed prior to 1933 have now been consolidated in a new *Deutscher Gemeindetag* or union of cities.[31] This organization was made a corporation of public law and was vested with extensive advisory and research functions. Coming under the supervision of the Minister of the Interior and also of the party office for municipal affairs, the *Gemeindetag* has already proved to be of great value to governmental authorities, particularly in the drafting of the new municipal code and in preparing the forthcoming county code.

Several German cities have been selected for special treatment at the hands of the National Socialist state, and given distinctive titles. For instance, Goslar is now called the *Reichsbauernstadt*, Frankfurt-am-Main the *Stadt des Deutschen Handwerks*, Stuttgart the *Stadt der Auslandsdeutschen*, Munich the *Hauptstadt der Bewegung*, Nürnberg the *Stadt der Reichsparteitage*, and Berlin the *Reichshauptstadt*. In

[30] *American Political Science Review*, vol. 29, p. 658. See also Georg Schabert, *Selbstverwaltung nach dem neuen deutschen Gemeinderecht* (Munich, 1936).

[31] RGB, I, 1933, p. 1065. This organization publishes two fortnightly magazines dealing with local government, one called *Der Gemeindetag* and the other *Die Landgemeinde*.

the case of Nürnberg a special act was passed creating an *ad hoc* organization for the purpose of carrying out the extensive alterations of the city and the construction of the elaborate party buildings and grounds.[32] In the case of Berlin a new charter was promulgated which gives to the capital city a distinctive government of its own.[33]

b. *The Capital City, Berlin.*

Under the law of December 1, 1936, Berlin's form of government, in the words of its Chief Mayor, has been definitively set, the latest change being not merely another step in communal development but the final goal.[34] The acts of 1920 and 1931 made some advances in consolidating and simplifying the area of the *Hauptstadt* and attempted to bring about a proper division between central and local authorities. After Hitler came to power, a Commissar for Berlin was appointed under the act of May 31, 1933. This act was altered on March 28, 1934, and was again superseded by a new fundamental charter which appeared in the act of June 29, 1934. Following the appearance of the German municipal code in 1935, it was only a matter of time until Berlin should be brought under this general act with the particular exceptions necessary to a large capital city. Now under the act of 1936, the municipal code of 1935 is made applicable to the city except where it is especially provided otherwise in the new Berlin act. Previous administrative difficulties have now been largely eliminated.

The twenty administrative districts first created by the law of 1920 remain, but now the District Mayors are given complete charge of their respective areas under the direct responsibility of the Chief Mayor of the city. The Chief Mayor thus becomes the completely responsible authority for the whole city. The higher supervisory functions formerly exercised by the Chief President of the province of Brandenburg and under the act of 1934 by the State Commissar, are now given to the *Stadtpräsident* who is also Chief Mayor (*Ober-*

[32] RGB, I, 1935, p. 459.
[33] RGB, I, 1936, p. 957.
[34] See the article by Dr. Lippert in *Zeitschrift der Akademie für Deutsches Recht,* vol. 4, no. 14, pp. 449-452.

bürgermeister). Thus a unity between municipal and higher authority is brought about through a personal union of the office of Chief Mayor and City President. The Chief Mayor is not named, however, in the manner provided in the German municipal code, but is appointed directly by the *Führer*. The higher supervisory authority continues to be the Minister of the Interior.[35]

Special importance attaches to the position of the *NSDAP* in Berlin's new municipal administration. The party representative named in the act is the district leader of the party in Berlin, Dr. Goebbels, who by virtue of this position is given wide influence in Berlin's affairs. "The conqueror of Berlin," as he has been called, through his control over cultural affairs, the press and propaganda, is in a key position to make over the city of Berlin to accord with National Socialist plans and ideas. This power of the Propaganda Minister in his capacity as party agent in Berlin's city government, shows the complications as well as the simplicity of municipal administration under the National Socialist regime. The Minister of the Interior is in fact subordinated to the Propaganda Minister in the actual control of the affairs of the city of Berlin.

c. *Municipal Enterprises.*

Part VI of the German municipal code dealing with "Municipal Economy" is a very important part of the law. It deals comprehensively with all the financial activities of the city including the operation of municipal enterprises. In this latter field Germany provides the best example of a country which has embarked on various economic enterprises which in range and intensity are without comparison elsewhere.[36] There has always been in Germany a strong collective instinct which has encouraged associational activity. Germans have had a very wide concept of the functions of the state, and the country has had a rapid industrialization with the consequent growth of urban life. German cities for many decades have

[35] Recently an Inspector General was appointed to supervise the rebuilding of the city. He is appointed by the *Führer* and comes directly under his supervision. RGB, I, 1937, p. 103.

[36] See May L. Dhonau, *Communal Enterprise and Social Services in Germany* (London, 1931).

wanted to retain monopoly profits for the benefit of the community as a whole, and every German town of any size has really become a large industrial entrepreneur. Most of the gas and water works, a considerable although diminishing part of the supply of electricity, an overwhelming majority of short-distance transport services, and about one-fifth of the forest resources of the nation are owned and managed by various local authorities. An extensive system of municipal savings banks also exists. Most of the municipalities also manage their own slaughter-houses, theatres, orchestras and local health resorts. Some municipalities also own hotels, milk depots, agricultural estates, and engage in the real estate business. Finally, a number of municipalities hold a not inconsiderable share in the capital of mixed undertakings conducting various businesses such as those of inland ports, airports, and inland air services.[37]

Under section 67 of the municipal code, conditions are laid down which must be fulfilled before a local authority can establish or extend an industrial undertaking. This restriction on the previous rule of unlimited powers in local affairs is bound to narrow the sphere of municipal activity. Effective control is now exercised through the required approval of all loans by the Ministers of Finance and Interior, and by the provision that all such loans are to be raised only for "extraordinary and unavoidable demands." These provisions will be salutary if they aim at strict financial probity in municipal affairs, but they will operate to reduce the freedom of the municipality to run its own business enterprises. This is perhaps the natural reaction against the shortcomings of German municipal authorities in the period following the war.

5. *The Saar and Austria.*

Following the plebiscite on January 13, 1935, the Saarland was returned to Germany.[38] The law of January 30, 1935,

[37] See Wells, *op. cit.*, pp. 222-227, for a good discussion of the management of municipal undertakings in Germany.

[38] For an account of the plebiscite, see James K. Pollock, "The Saar Plebiscite," in *American Political Science Review*, vol. 29, pp. 275-282. The best studies of the Saar problem prior to the plebiscite were the two

created a National Commissioner for the Saarland, and placed the government of the area under his control.[39] The National Socialist district leader, Herr Bürckel, was appointed to this new post by the *Führer*, and the various administrative authorities of the Saar became direct national officials. A new area for one of the trustees of labor (to be discussed in the next chapter) was also created by uniting the Saar with the Bavarian Palatinate. German laws and decrees were gradually applied to the Saar, and the *Führer* appointed eight new members of the Reichstag to represent the re-united Saarland.[40] In 1936 and 1938, deputies representing the Saar were elected as in the other parts of Germany. In a sense the return of the Saar was an instance of territorial reform, and the position of the Commissioner was made similar to that of a National Governor and a Prussian Chief President.

The Saar is a very valuable addition to German power. It is one of the richest mining and manufacturing areas in Europe, and its strategic location on the western boundary is of immense importance to German defense. The area really makes a unity with the French Lorraine mining area, which is now separated from it by a well fortified boundary. But industrialists on both sides of the border seem to have been able to avoid the worst features of complete separation.

The recent sensational acquisition of Austria has presented Germany with an area of thirty-two thousand three hundred sixty-nine square miles and a population of six million seven hundred sixty thousand two hundred thirty-three people.[41] Never before in history has Germany controlled Austria, although the two countries have previously been united and the

reports issued by the Royal Institute of International Affairs in London entitled "The Saar Problem" (number 11), and "The Saar Plebiscite" (number 14), both issued in 1934.

[39] The law read as follows: "Until the union of the Saarland with a *Reichsgau* is effected, its administration is in charge of the National Commissioner for the reunion of the Saarland. . . . The National Commissioner is the permanent representative of the Reich government in the Saarland. It is his duty to see that the instructions issued by the *Führer* are carried out." RGB, I, 1935, p. 66. See also RGB, I, 1935, p. 221, for an elaborate act which established administrative relationships in all the areas of government.

[40] RGB, I, 1938, p. 68.

[41] See the *Bulletin of International News*, vol. 15, nos. 6 and 7, for an accurate and complete day by day account of the events of March, 1938.

Austrian population is German-speaking. Following the forced resignation of Chancellor Schussnigg, the Austrian cabinet promulgated a law according to the terms of which Austria became a state (*Land*) of the German Reich.[42] This law was issued simultaneously in Berlin and Vienna, and in quick succession a series of orders and decrees were issued by Hitler and the various competent ministers extending the provisions of important German laws to Austria.[43] Dr. von Seyss-Inquart was appointed National Governor for Austria, the former federal cabinet of Austria became the "Austrian state cabinet," and the National Governor was entrusted with the leadership of the new cabinet. The Minister of the Interior, Dr. Frick, was empowered to transfer the authority which had been given to him to take charge of the reunion of Austria with Germany, to a "National Representative for Austria." The Commissioner for the Four Year Plan was authorized in conjunction with the Minister of the Interior to appoint this National Representative and invest him with all necessary power for the execution of the Four Year Plan and the reunion of Austria with Germany. The Austrian railways were combined with the German railways, the Austrian National Bank was brought under the direction of the Reichsbank, and the administration of police, justice, finance, posts and telegraphs, and the other governmental functions were promptly consolidated. The Minister of Finance was empowered to provide the necessary funds for the building of public works and the economic development of

[42] This law was published simultaneously in Berlin, and was incorporated as part of a new German law extending German authority over Austria. RGB, I, 1938, p. 237 (March 14, 1937). The Austrian cabinet could not find any authority in the constitution of 1934, which was then in force, to permit them to cede the country to the Reich. Even article 147 of that document involved consultation with Parliament. They were resourceful, however, if not legally scrupulous, when they used a law of April 30, 1934 (the so-called *Ermächtigungsgesetz*) which provided for transitional powers pending the coming into force of the entire constitution. Art. III of this act gave broad powers to the cabinet, including the power of amending the constitution. The Seyss-Inquart cabinet used this article. See *Bundesgesetzblatt*, no. 75, 1938, and *ibid.*, no. 255, 1934. Also *Jahrbuch des öff. Rechts*, vol. 24, pp. 182-183.

[43] RGB, I, 1938, pp. 245, 247, 248, 249, 253, 254, 255, 259, 261, 262, 301, 302, 308, 309. These represent the legal efforts of only the first two weeks of German rule.

the country, and in ten days, work had started on the first new motor road in Austria.

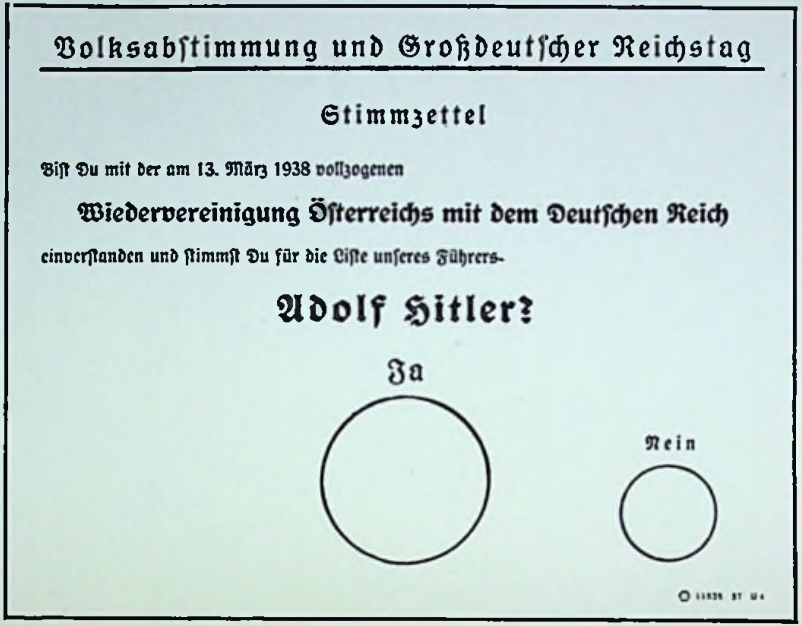
The Commissioner for the Saar, Herr Bürckel, who had managed the German campaign prior to the Saar plebiscite, and who as Commissioner of the Saarland had supervised the incorporation of that area into Germany, was transferred to Vienna to handle the campaign prior to the plebiscite on April 10, 1938. On April 25 he was named National Commissioner for the Reunion of Austria with Germany, appointed by and directly under Hitler and with wide powers over both state and party officials. This new Commissioner has until May 1, 1939, to complete his task.[44]

The election was called to confirm the union of Austria with Germany, as well as to elect a Reichstag for Greater Germany, and according to expectations, resulted in an overwhelming vote for incorporation into the Reich. The ballot used in this election (see next page), combining as it did two votes in one, and having its particular wording and arrangement, is quite revealing.

What will be done with the government of Austria's political sub-divisions, namely, the city of Vienna, and the eight provinces, together with their lesser units, has not yet been determined. Many similarities exist between German and Austrian governmental structure and administration. But numerous well established Austrian governmental practices will have to be brought into line before Austria can be said to be an integral part of the Reich. To date, the German municipal code and the civil service act have not been given application to Austria, although complete administrative and political control have been established through the appointment of a National Governor, and a National Commissioner. Obviously it will take considerable time to "coordinate" Austria with the Reich in all phases of government activity. The smoothness and despatch which has characterized the major moves, however, is eloquent testimony of the ability of the German administrative machine to handle the task. Another nation has been taken over and incorporated into the German political, economic, and social (also religious?) sys-

[44] RGB, I, 1938, p. 407.

BALLOT USED IN THE AUSTRIAN PLEBISCITE


Volksabstimmung und Großdeutscher Reichstag

Stimmzettel

Bist Du mit der am 13. März 1938 vollzogenen

Wiedervereinigung Österreichs mit dem Deutschen Reich

einverstanden und stimmst Du für die Liste unseres Führers-

Adolf Hitler?

Ja

Nein

tem without confusion, almost as if the details of such a union had been worked out with great care for years in advance.

By the annexation of Austria, Germany has increased her population to seventy-four millions, and has gained important strategic advantages. Germany is now in direct contact with Italy, Hungary, and Jugoslavia, and with Vienna as the center of communications for the entire Danubian basin, the National Socialists are in a position to dominate southeastern Europe. Nevertheless, the economic effects of the incorporation of Austria are mixed. Germany acquires valuable iron ore deposits, rich timber reserves, dairy products, electric power, and magnesite used in aircraft construction, as well as the opportunity for further industrial development. A gold reserve of some ninety million dollars, as compared to only twenty-five million dollars in Germany, is now also available to assist Germany in her economic policies. On the other side, however, Germany has acquired some liabilities. Austria in no way makes up for Germany's shortage in wool, rubber, oil, fats, cotton, and cereals, and the cost of fortifying the country, reorganizing its government, and developing its resources within the Nazi economy, will be considerable.

By way of summary of German state, district, and local government, it should be made clear that from Prussia to recently acquired Austria, all branches of administration, whatever their present status may be, do not exist independently of one another, but are based upon the administrative supremacy of the Reich. Furthermore, Adolf Hitler is the only head of the Reich and the party, and he is therefore the highest and only head of the entire system of administration. At no point do the citizens choose their officers, for in district and local affairs as elsewhere in the National Socialist system, the leadership principle is followed.

CHAPTER VII

THE ADMINISTRATION OF ECONOMIC, SOCIAL, CULTURAL, AND RELIGIOUS AFFAIRS

One of the features of the German totalitarian regime is the extension of government control into every phase of economic, social, cultural and even religious life. The tremendous growth in government activity is noted, in part, in the expansion of regular administrative services in the agencies already established. Three new ministries, however, have been created, and equally important, an elaborate group of so-called corporate "estates" (*Stände*) have been set up. These new agencies of the National Socialist state reach down into every part of national and individual activity and endeavor to bring together all of the German people into large occupational groups. At the present time practically every German is now included in one or more of the various estates, and the inner structure of the Reich is therefore placed on a different administrative basis than heretofore.

1. *The German "Estates."*

Point 25 of the party program demanded "the formation of professional and trade chambers for the carrying out of the general laws of the Reich in the individual federal states." Early in the Hitler regime the advocates of a corporative state were quite prominent and influential. Led by Gottfried Feder and influenced by the ideas of Otto von Gierke and Othmar Spann, the corporationists had a whole program for social and economic reorganization.[1] But as events have shown, nothing resembling the Italian development has taken

[1] The best treatment of this subject is found in Fritz Ermarth, *The New Germany* (Washington, 1936), Chapter IV. See also R. A. Brady, *The Spirit and Structure of German Fascism* (New York, 1937).

place. There seems to have been no real intention of developing the Nazi state into a corporate one, for the goal of National Socialists was to produce a power state as the sole bearer of sovereign rights. The Germans have been content to use their corporations or estates to implement the regular structure of the state, rather than to re-make that structure according to a corporate pattern.[2]

The first estate created was the Estate of Agriculture.[3] The next was the Chamber of Culture. Then came the Estate of Trade and Industry and the Estate of German Handicrafts, the latter being purely a regional organization while the functional organization is incorporated in the Handicrafts branch of the Estate of Trade and Industry. Transport formed a part of the Estate of Trade and Industry when that body was set up in 1934, but since about 80 percent of all transport enterprises are public property, it was later considered expedient to establish a separate corporative transport organization under the leadership of the Ministry of Transportation. This organization, however, is connected with the Estate of Trade and Industry through their representatives in the National Economic Chamber. Finally the Labor Front was created and the law setting it up must be regarded as a basic law of the entire corporate organization. In fact the Labor Front is really the central organization point of the entire corporate structure. The evolution of these estates is probably not yet closed, but apparently a further legal development in the direction of a completely unified corporative system is not yet possible and perhaps not necessary.

All of these estates have the same underlying principles.[4] Their policies are defined and directed by the central authorities. They are all attached to some one of the regular gov-

[2] There was formerly an Office for Corporate Organization in the party under the National Organizer, and the Labor Front had a similar bureau. Both of these agencies have since been dropped.

[3] The Report of the Department of Overseas Trade, no. 641, entitled *Economic Conditions in Germany*, London, 1936, is one of the most useful sources of information dealing with the estates. It contains a mass of valuable material.

[4] See *Reichsverwaltungsblatt*, vol. 58, no. 19, pp. 372-377, for a recent authoritative article. Also *Die Verwaltungs-Akademie*, vol. 3, no. 47, for a study by Max Frauendorfer, one of the party specialists in this field; also Köttgen, *op. cit.*, p. 118, and Maunz, op. cit., pp. 163 ff.

ernment departments, and they are intended to work for the common good rather than for their particular interests. Since they have superseded the former pressure groups of employees, employers, and professional workers, they are supposed to subordinate their own special interests to the national interest. They are also inter-related to each other—the other estates, for instance, being joined to the Labor Front. Where their activities touch, as in agriculture and industry, they likewise have connections with each other.

a. *The Labor Front.*

"Without question," writes a recent observer, "the German Labor Front must be catalogued as an invaluable part of the dictatorial pattern. It is the most important agency, not excluding the party, for feeling the pulse of the German people. As a propagandist organ it is rivaled only by the Ministry of Propaganda." [5] This very important mass organization now includes some twenty million members.[6] It has a full time staff of some forty thousand officials and an asserted additional voluntary staff of one million five hundred thousand unpaid officials. At the last party congress, Dr. Ley, who is the head of the Labor Front (and at the same time National Organizer of the party), reported that the membership dues of the organization had now risen to thirty-two million marks a month, and that its present resources amounted to nearly half a billion marks.[7]

It was this organization which took over the funds of the former trade unions and their subordinate organizations, and

[5] Taylor Cole, in *Political Science Quarterly*, vol. 52, pp. 532-558. See also *Deutsche Sozialpolitik, Jahresbericht der Deutschen Arbeitsfront* (Berlin, 1937).

[6] Hitler, in his speech to the Reichstag on February 20, 1938, said: "In 1937, the number of members of the Labor Front was 17,973,000. When the incorporated members are added to this, the number reaches over twenty million. The members of the Chamber of Culture and the Agricultural Estate are not included in this."

[7] A recent estimate by a competent observer said that "altogether the German people are probably spending over two billion marks" a year in dues of various kinds, i.e., to the Labor Front, to the National Socialist Welfare Organization, to the Organization for Air Defense, and to the various estates. John C. de Wilde in *Foreign Policy Reports*, vol. 13, no. 4, p. 44.

organized all the brain and manual workers of Germany except farmers and civil servants, regardless of whether they were employees or employers. It therefore includes in its membership not only former trade unionists but also members of the former employers' associations. Since its inception, the Labor Front has been under the direction of Dr. Ley, who under the leadership principle, appoints all of the subordinate Labor Front directors. As an arm of the National Socialist party, the Labor Front tries to eliminate social strife and to place the productive capacity of both capital and labor at the service of the entire nation.

As a huge social organization, the Labor Front has a social section which deals with social insurance, unemployment, and welfare relief; a health section; a training section; and most important of all a department called "Strength Through Joy." This unique social organization of the Hitler regime is one of the outstanding successes of National Socialism. It arranges and helps to finance vacation trips for millions of German workers at unusually low rates, and provides spare-time amusement in the form of theatrical and musical performances. It gives instruction and training in all kinds of sports, organizes lecture courses and travelling libraries, and provides facilities for practical activities in music, photography, drawing, painting and carving. In 1936, week-end or longer holiday trips were organized for nearly five million people. The organization owns both ships and resorts, and according to Dr. Ley, will organize tours for no less than nine million people in 1937 and walking expeditions for two million more. Another branch of the "Strength Through Joy" movement is the Department of "Beauty in Work." This group is concerned with the improvement of workshops and industrial premises from the point of view of beauty and health, and in the five years of National Socialist power about five hundred million marks have been spent on improvements in industrial undertakings to make them more healthful and attractive.[8]

The territorial organization of the Labor Front follows that of the party organization. There are thirty-three district organizations including a foreign region. Since the re-

[8] *International Labour Review*, vol 36, pp. 772-779.

organization of 1934, the Labor Front is also organized by industries, and the single undertaking is the lowest unit of the Front. All works communities in the same branch of industry are banded together in a national group, and at present there are eighteen of these groups including the National Textile Group, the Iron and Steel Group, and the Trade Group. The head of each works community must be a member of the National Socialist party and invariably is also the head (*Zellenwart*) of the National Socialist Industrial Cell Organization (*NSBO*), which is the most important unit in the whole structure. Through this organization the party is kept informed of developments and is assisted in applying National Socialist principles to all concerns.

Following the elimination of the trade unions and employers associations, it became necessary to take action to prevent the collapse of the wage and employment structure of the country. The law for the regulation of national labor of January 20, 1934, was the result.[9] The Minister of Labor has explained this important act in these words: "The act is based on the notion of the bond between the industrialist as leader of the undertaking and the workers and employees as his followers. Their common labors must promote the aims of the undertaking and the common welfare of the people and the state. The idea of this mutual bond is expressed in the duty placed on the employer to watch over the welfare of his staff, and the duty placed on the staff to observe towards the head of the undertaking the loyalty which is founded in the works community. In the acceptance of this principle of solidarity, and in the mutual confidence, loyalty, and comradeship resulting from it, lies the essence of the new outlook demanded by the act."

The leader of the firm is advised by a council of trust, which is intended to be the intermediary between employer and employee. The members of this council are proposed by the leader of the concern in collaboration with the chairman of the local National Socialist cell organization, and the followers merely have the possibility of crossing out the

[9] The subject is well treated in a report of the National Industrial Conference Board by Vaso Trivanovitch, *Economic Development of Germany under National Socialism* (New York, 1937), Chapter I.

names of undesirable candidates on the list as laid before them by the employer. The law provides for elections every year before the first of May but this provision has not always been followed. The leader of the concern is given wide powers in the act, and since the right to strike is denied to the workers, the government found it necessary to provide some means of control over the employers. For this purpose they created the new office of Trustee of Labor, and divided the country into fourteen labor districts in each of which the Minister of Labor has appointed a Trustee. These new officials have great importance, for on them falls the task of maintaining industrial peace. When agreement cannot be had within an individual concern, the Trustee of Labor decides and his decision is final.

One additional provision in the labor law should be mentioned. Courts of Social Honor in each Labor Trustee district, and a National Court of Honor in Berlin, have been created to handle all cases involving failures of employers or employees to observe their "social responsibilities." Such offenses are very broadly defined, and these novel courts have been feeling their way quite cautiously, albeit efficiently, in promoting good industrial relations.

It can thus be seen that in the National Socialist plan of industrial relations, the employer and the state are primarily concerned. If capable administrators for the state are able to handle the manifold relationships between employer and employee in the districts, peace and efficiency will prevail. But a wide acceptance of the principles of the law on the part of both employers and employees will be necessary if complete success is achieved. Decentralized administration through the Trustees of Labor may work as it has within the Nazi party. But economic and political conditions within Germany alone will decide.

b. *The Estate of Trade and Industry.*

In order to control the industrial and commercial activities of the nation, the government has created the Estate of Trade and Industry. National Socialism has been careful to declare its devotion to private industry and to disclaim any intention

of nationalizing German industry and trade. But government intervention has been so great, that it is very difficult to avoid the conclusion that a state-directed planned economy is rapidly encompassing all fields of economic activity. Under the Four Year plan great impetus has been given to the extension of government interference in business affairs.

The supreme body under the Estate of Trade and Industry is the National Economic Chamber. This central body unites within its organization the various branches of business, transport, chambers of commerce, industrial boards and chambers of handicraft. Its head is appointed by and is under the direction of the Minister of Economics, and its advisory council consists of representatives of the component organizations. Together with the National Labor Chamber appointed by the head of the Labor Front, this advisory council forms a National Council of Labor and Industry—a body which was set up to eliminate the conflict which existed between labor, as led by Dr. Ley, and business, as represented by the former Minister of Economics, Dr. Schacht.[10] This National Council, therefore, is another advisory body which is supposed to deliberate on economic and social questions and then assist in carrying out the policies without friction.

Under an order issued at the time of the army shake-up in February, 1938, the Ministry of Economics was completely subordinated to the Four Year Plan under Field Marshal Göring. The Ministry is now divided into five departments with two secretaries of state, one of them being Herr Brinckmann, a director of the Reichsbank. Two of the five departments, the one dealing with industry and raw materials, and the one dealing with mining, the iron industry and power generation, have been placed under two Major Generals from the army. The ministry thus becomes the principal agency for the execution of the Four Year Plan, which aims to make Germany "independent, strong and free in every sphere." [11]

Through the various regional and functional organizations

[10] *Source Book,* IV, pp. 103-107.

[11] It appears from a recent statement that only 12 percent of the capital invested in the Four Year Plan factories has come from state funds, while 30 percent has been derived from manufacturers' reserves, 50 percent from issues of shares and securities, and 8 percent from bank credit and cooperative loans.

under the National Economic Chamber—as well as through the cartels, all under the direct or indirect supervision and control of the Minister of Economics—German business is effectively brought into line. It is hardly an exaggeration to say that the German business man whether he is a manufacturer, distributor or exporter is gradually assuming the status of a public employee. The state not only determines for him the volume of his output and his sales, but also the prices at which he is allowed to buy and to sell, thus leaving a constantly narrowing space for the exertion of his business initiative. The state controls the investment of capital, and the amount of raw materials to be placed at the disposal of industry, as well as the volume and distribution of credit. In a word, the German national economy, which in 1933 was already strongly under government control, has been subjected to further intrusions by the state as reorganized and streamlined by the National Socialists.[12]

c. *The National Agricultural Estate.*

This estate was the first corporative organization to be created by the National Socialist Government in pursuance of its policy of *Blut und Boden* (blood and soil). There soon followed the property inheritance law,[13] regulations to create small holdings, and finally certain steps toward what appears to be a planned economy in agriculture. All of these actions are intended to give a more secure and permanent status to the German peasant, and thus to solve the problem of German agriculture and the position of the peasant in the national economy.

The Agricultural Estate is composed of all individuals, functions and organizations concerned in the production and distribution of agricultural commodities in Germany. It has the power to collect fees and make levies upon its members, and in addition to its economic activities, the Agricultural Estate also performs important functions in respect of social

[12] See Report of the National Industrial Conference Board, *op. cit.*, especially Chapter III. For a recent report of economic conditions in Germany, consult the articles by Norman Crump in the *Financial Times* (London) for November 30, December 1, 2, 3, 6, 7, 8, of 1937.

[13] *Source Book*, IV, p. 94.

policy, land tenure, and population policy. The estate is organized nationally into twenty regional associations brought together under the national Minister of Agriculture, who is the head of the whole estate with the title of National Peasant Leader. Although he has an advisory council of around one hundred members, appointed by himself, his authority is supreme. A large farm committee (*Reichsbauernthing*) of about one thousand members, however, is responsible for the arrangements for the annual farm congress which is held at Goslar.

The functions of the Agricultural Estate in no way conflict with the functions vested by law in the Ministry of Agriculture. On the contrary, as in the case of the other estates, they complement and supplement the regular government services, and endeavor to enlist the support of the peasantry in the great "battle of production." The estate is supposed to organize and coordinate the peasants and all factors in agricultural production into one harmonious social group which will aid the regular government agents in carrying out the policies of the government.

Quite as important in the agricultural field as the creation of the Agricultural Estate is the basic new law dealing with the inheritance of property.[14] The preamble of the law reveals its purpose, and states succinctly the National Socialist policy in respect to agriculture. "The Cabinet," reads the law, "by safeguarding old German customs of inheritance of property, wishes to preserve the peasantry as the blood source of the German people. The property of peasants shall be protected from overburdening and splitting up so that it will remain permanently as the property of the family in the hands of free peasants. A fair distribution of agricultural properties shall be worked out since a great number of productive smaller and medium-sized peasant properties, distributed as evenly as possible all over the country, gives the best guarantee for the health of the people and state."

Under this law a farm owner who meets certain economic and racial standards and who possesses a holding up to one hundred twenty-five hectares (three hundred nine acres), can-

[14] *Iowa Law Review*, vol. 20, p. 350, for an excellent discussion of this law.

not have his property mortgaged or sold, nor can a distress be levied against such an hereditary peasant farm because of some financial demand. Such farms also pass to one heir undivided, but younger brothers are entitled to vocational training at the expense of the farm. On January 1, 1936, six hundred five thousand four hundred sixteen hereditary peasant farms were registered, and their total population represented something less than a quarter of the total farmer population of the country and their acreage about 40 percent of the acreage belonging to farmers with more than five acres of land each.

It is too early to determine how satisfactory this peasant program has been.[15] It is clear, however, that the whole peasant problem has not yet been solved. The Junkers have benefited quite as much as the peasants, for instance, from agricultural labor. Furthermore, the problem of the large estates has not been attacked, although higher prices have been given to the farmers for their products, and much assistance has been provided toward producing larger and better crops.

d. *The Chamber of Culture.*

As a valuable aid to the newly created Ministry of Public Enlightenment and Propaganda, the National Chamber of Culture was set up.[16] In this Chamber are united seven different groups of professions under the jurisdiction of the Ministry of Propaganda: writing, journalism, the radio, the theatre, music, art, and the cinema. All of these associations together form the Chamber of Culture under the Presidency of the Minister of Propaganda (who is also head of the propaganda section of the party). The President is assisted by an advisory Council of Culture consisting of the Presidents of the affiliated chambers, and by a National Culture Senate composed of the prominent personalities in German cultural life.

Through this Chamber of Culture the Nazi state has been able to establish the most complete system of control over

[15] Roberts, *op. cit.*, pp. 189-201.
[16] *Handbuch der Reichskulturkammer* (Berlin, 1937).

cultural matters Germany has ever seen. No journalist may write, no singer may sing, no artist may paint, without first becoming a member of the National Culture Chamber. This compulsory membership, together with the stringent control over all cultural activities exercised by the representatives of the Ministry of Propaganda (who are at the same time leaders of the propaganda section of the party), has not only succeeded in eliminating undesirable elements (i.e., Jews and liberals) from these important professions, but it has had profound effects upon the moral, mental, and economic life of the country.

Aside from the control over the youth of the nation, nothing is more important than the control of the press. Under the presidency of Max Amann, a member of the party cabinet, and the first organizer of the party and the editor of its principal newspaper, the *Völkischer Beobachter*, the press chamber, one of the constituent parts of the National Culture Chamber, has placed the whole press of the country at the service of the government.[17] This regimentation of the press, together with the control of the radio, has had the most profound effect upon the German mind, and even constitutes a factor of great importance in international relations. That is to say, not only are the opinions of the German people effectively molded into one common mold for domestic purposes, but their international opinions are also formulated for them by a highly efficient propaganda office and by an ambitious foreign radio program reaching all over the world. Unless these facts are understood, no one can have a proper idea of the Nazi system, and why it has been able to subsist.

Viewing the occupational life of Germany as a whole, we are now able to see how completely it has been incorporated into the totalitarian state. Industry, trade, handicrafts, banking, labor, agriculture, the professions—all have been brought under the strictest kind of control through the above-mentioned corporate organizations. Without these membership organizations, tied up as they are with the apparatus of the state and the party, National Socialist Germany could not possibly be so thoroughly totalitarian.

[17] See Pollock and Heneman, *The Hitler Decrees*, 2nd edition, p. 30, for the sweeping press law.

2. Other Special Agencies of Social Importance.

a. *The Labor Service.*

Prior to National Socialism, a voluntary labor service was instituted to assist in the solution of the unemployment problem. The start thus made with young men has now been expanded by the Hitler regime into a compulsory service for every young German. Under the law of 1935, "all youths of both sexes are required to serve their people in the national labor service." [18] To date, the labor service is only compulsory for men, but all young men between the eighteenth and twenty-fifth years must now serve six months in the labor service prior to being called for military service. The Labor Service, in the words of its leader, "is that link heretofore lacking, in the chain of state institutions for the education of our youth, which comes between the school and the army." [19] So important has this link become that the National Labor Leader has now been made a state official owing responsibility to the Minister of the Interior, and empowered to sit in the National Cabinet when his jurisdiction is affected.[20]

Under an order of the *Führer*, the strength of the Labor Service up to October, 1938, has been set at two hundred seventy-five thousand men, and after that date it is to be expanded to three hundred thousand men. Beginning October 1, 1938, the Labor Service will also be extended to Austria. The strength of the Labor Service for young women has been increased to twenty-five thousand women, but still remains on a voluntary basis. In both parts of the service two chief aims prevail, one to train the youth in the principles of National Socialism, and the other to improve the German soil so as to make it more productive and thus insure German independent existence. To these ends, the young people are put to work draining swamps, working in fields, improving buildings, roads, and bridges, and assisting with the harvest.

Similar to the Labor Service, but not compulsory, is the *Landhilfe* or Land Help founded early in 1933 to place

[18] *Source Book*, IV, pp. 97-100.

[19] See the study by him, Konstantin Hierl, in *Die Verwaltungs-Akademie*, vol. 3, no. 54, entitled *"Arbeitsdienst."*

[20] RGB, I, 1937, p. 95.

unemployed young people on farms as agricultural laborers. Under this plan the farmer and his wife are relieved of some of their routine work, and the young people are made acquainted with farm activity and given useful employment. The latest figures show that some one hundred ten thousand young, unemployed men and twenty-seven thousand young women were working on farms under the jurisdiction of this scheme.

b. *Welfare.*

Although Germany was far advanced in the field of public welfare institutions before the advent of National Socialism, there has been a great impetus given to organizations in this field since 1933.[21] One of the most remarkable of the new Nazi institutions is the National Socialist People's Welfare Organization. This party institution is one of the largest social welfare organizations in the world with a membership of around five million persons. Such activities as war victim relief, care for mothers and children, and provision for the aged and infirm are listed among its activities. The report given each year at the party congress lists an astonishing amount of social work performed by this organization.[22] As an important supplement to the regular services of the state, it makes a great contribution to the comfort of the German people.

The most advertised institution of social service in Germany is the Winter Help. Under a recent statute, the representative of Winter Help work is made responsible to the Minister of Propaganda and is placed under his department. At the same time however, the financial control of the Winter Help is in the hands of the Treasurer of the party.[23] In his speech to the Reichstag on February 20, 1938, Hitler pointed out the achievements of the Winter Help in collecting four hundred eight million marks in goods and money and in as-

[21] See *Die Verwaltungs-Akademie,* vol. 3, no. 53, for a study by Dr. Jeserich. The social aims of the Nazis are well discussed in a recent book by J. B. Holt, *Under the Swastika* (Chapel Hill, 1937).

[22] *Nationalsozialistische Partei-Korrespondenz,* no. 210, September 10, 1937.

[23] RGB, I, 1937, p. 423.

sisting nearly eleven million people during the year 1936–1937. According to his figures, one hundred sixty-one people out of every one thousand were helped with money or goods from the Winter Help. This means that every one of those supported received about thirty-eight cents a week in goods or money, and even if this grant was in addition to other assistance or wages, it shows the widespread need for help within the National Socialist state. But the Winter Help is a magnificent example of the ability of the Nazis to enlist the support of the whole population behind a worthwhile move to alleviate the suffering of the people. Street collections, one-dish Sundays, the sale of door placards, and door to door collections are all resorted to with remarkable success in securing funds for the relief of the unfortunate. The whole campaign, of course, also serves the purposes of the supreme master of propaganda, Dr. Goebbels, in emphasizing the slogan of National Socialism, "the common weal before private interests."

In this same field, mention should again be made of the Hitler Youth, which has become one of the most important agencies of the Nazi state, and whose leader has been placed under the direct control of the *Führer*. This organization has come so to monopolize most of the spare hours of the young people that little time is left for either family or personal life. As a supplement to the regular educational system, it is having a profound effect upon the development of the young people of Germany.

3. New Trends in Social and Educational Policy.

a. *Social Insurance and Public Health.*

No country in the world, with the possible exception of New Zealand, has gone as far as Germany in providing a broad social welfare policy. Long before the National Socialists came to power, Germany enacted a comprehensive system of workers' insurance.[24] In 1883, the Sickness Insurance Act was passed; in 1884, Accident Insurance followed;

[24] Robert Frase, *The Administration of Unemployment Insurance and the Public Employment Service in Germany* (Washington, 1938). Also *Die Verwaltungs-Akademie*, vol. 2, no. 38.

in 1889, legislation was enacted which introduced invalidity and old age insurance; in 1911, insurance was provided for salaried employees; and in 1927, the Unemployment Insurance act was passed. Under the law of December 7, 1933, and the more recent law of December 21, 1937,[25] the National Socialist government has reorganized the social insurance system by placing it on a sounder financial basis, and by introducing certain liberalizing provisions for children, large families, and war veterans. The independence of the six insurance institutions has been preserved, however, and no attempt has been made to centralize the whole insurance system into one organization. A somewhat stricter financial control has been provided and a more intimate contact between government administration and the social insurance bodies now exists. According to a recent report, the income from all branches of social insurance, with the exception of unemployment insurance, amounted in 1936 to three billion eight hundred sixty million marks, an increase of about one million marks over 1932.[26] As a result of the increased employment and the decrease in the calls upon social insurance bodies, the membership returns as well as the financial returns have shown a considerable improvement.

In the field of public health there has been a thorough reorganization of policies and an extension of services. Some thousand new health offices have been opened throughout Germany to perform a variety of useful functions.[27] Special attention is now being given to pregnant women, mothers, babies and school children. Medical advice and care is also given to tubercular patients and to those suffering from venereal diseases. A special law has been passed which provides for the compulsory sterilization of individuals afflicted with any anti-social or moral defects, or mental and physical disabilities, which could be transmitted to their offspring. The issuance of marriage licenses may also be subject to the production of proper certificates of health and capacity. In the inspection of factories, houses, food and clothing, in the pre-

[25] RGB, I, 1933, p. 1039, and RGB, I, 1937, p. 1393.
[26] *Die deutsche Sozialversicherung mit einem Blick auf das Jahr 1937* (Berlin, 1937).
[27] RGB, I, 1934, p. 531.

vention of epidemics, and in the care of the large masses of people who since the advent of National Socialism have gathered at great frequency to parade or celebrate a national event, the health officers are very much in evidence and render very satisfactory services.[28]

One should understand the importance of the close cooperation which exists between the government health offices and the National Socialist party welfare activities, centered principally in the National Socialist People's Welfare Organization, above described, and in the Labor Front. Somewhere along the line, either as a matter of regular government service, or as a matter of party service, the unfortunate individual who needs care or advice will not be overlooked. The present emphasis is on child-bearing, and the party service "Mother and Child" and the "National Maternity Service" give health instruction of a very adequate and liberal nature.[29] In some cases "District Mother Schools" have been set up, and a recent agreement between the leader of the *SS* and the Agricultural Estate provides that a prospective bride cannot marry an *SS* man until she has attended a "Mother School" and has demonstrated her housewifely talents.[30]

b. *Education.*

In addition to the creation of a new department of Science and Education, and the removal of all individuals in the teaching profession who could be regarded as hostile to the new order, the National Socialists have reorganized the whole educational structure and program.[31] First and foremost, the entire population has been imbued with the doctrine of

[28] For a study showing the extent of health activities, see *Die Verwaltungs-Akademie*, vol. 2, no. 29. Also *International Labour Review*, vol. 36, pp. 26-48.

[29] At the *Parteitag* of 1937, Dr. Wagner said: "The German mother who is blessed with many children shall receive a place of honor in the community similar to that of the front soldier. . . . The *Führer* has decreed that a medal for prolific mothers be prepared. An iron medal is to be given to the mother of 4 children; a silver medal to the mother of 6 children and a gold medal to the mother of 8 children." The birthday of Hitler's mother, August 12, is German Mother's Day.

[30] *News in Brief*, vol. 5, p. 192.

[31] *Source Book*, IV, pp. 107-117. Also Theodor Wilhelm and Gerhard Graefe, *German Education Today* (Berlin, 1937), second edition.

the superiority of the German blood, and of the value of physical strength and force. As Hitler has stated it: "Through bodily strength and skill, the youth must recover faith in the invincibility of the nation." To this end, the whole educational program has emphasized sport, physical training, biology, military science, and raciology. The training of the body, and the development of the will to serve, are more important in the new German educational program than the training of the mind.[32] This form of education is what Mr. Aldous Huxley has called "hypnopaedia." [33]

In the second place, the National Socialists have relegated the family to the background, and have developed the state as the agency to provide the political, physical, moral, and even religious instruction of the youth of both sexes. Through the Hitler Youth in the first instance, the young people are to develop a spirit of comradeship and of loyalty to the group. Then through a set of special schools known as the "Adolf Hitler Schools" the most promising of the younger generation are developed into the future leaders of Germany.[34] The Labor Service too, is now an essential part of the educational system and not merely a means of solving the unemployment problem or a first step in military training. Similarly the army is looked upon as a great training school of the youth of the nation.

Finally, the structure of the regular educational system has been reorganized. An important reform was ordered in 1937 by which the many types of secondary schools for boys and girls were replaced by one uniform type, the

[32] *Social Research*, vol. 4, no. 3, pp. 347-360, article by Frieda Wanderlich.

[33] *Brave New World*, by Aldous Huxley.

[34] After the graduates of these schools have completed their labor and military service, they are expected to go to a university or take up a profession until they are about twenty-four or twenty-five. A muster of the graduates from the "Adolf Hitler Schools" is then held, and a thousand (out of a possible four thousand) are chosen to undergo further education at a series of *Ordensburgen* or leader schools. For three and a half years the prospective national leaders are treated to every experience and training necessary to make them good Nazi leaders, from mountain sports in the Bavarian Alps, to the art of propaganda in the celebrated Marienburg. See the excellent address on this subject by the Assistant Master at Charterhouse School, Mr. A. Rowan Robinson, in *International Affairs*, vol. 17, pp. 233-251.

Oberschule, which in the future will form the basis of the German secondary school system. A special type of secondary school known as the *Aufbauschule* is retained as a boarding school and its term is limited to six years. The Gymnasium or classical secondary school is also maintained "as an institution vital to the future of German culture." Another important new feature is the shortening of the school period from thirteen to twelve years, or to eleven years in the case of children of exceptional ability. Children will now leave school at seventeen or eighteen, a more convenient time to enter the labor and military service, and will be able to complete their professional training at an earlier age. Teacher training has also been reorganized in such a way as to emphasize instructional methods at the expense of academic training.

The fate of the German universities is a melancholy subject to write about. Formerly they were not only institutions of higher learning, but also important research centers. Their influence was world-wide and their reputation of the best. Today, German universities, like all other institutions, have been *gleichgeschaltet*.[35] They have dismissed or lost most of their distinguished professors. The rector and the deans of a university, formerly elected for one year from the faculty, are now appointed by the government and are responsible to the Ministry of Education. Staff members are now chosen more on the basis of party reliability than on the basis of intellectual distinction, and their instruction is closely watched and circumscribed. The total result is the tragic consequence of an anti-intellectual, anti-scientific political system. As Dr. Ley said in dedicating a recent "Adolf Hitler School": "Every great movement is reflected in its system of education." Certainly National Socialism cannot be accused of taking half-way measures to educate its citizenry according to its own ideas. Nor can it deny that the qualities most sought after in the educational systems of other great countries—truth, a scholarly attitude of mind, freedom, and tolerance, in a word, the development of competent, free individuals able to form their own judgments and adjust themselves to

[35] See Charles A. Beard in *Foreign Affairs*, vol. 14, pp. 437-452.

new situations—have been eliminated from the German educational system.

c. *Housing.*

Quite in line with their ideas of population distribution and large families, the National Socialists have favored the building of small houses for one or two families with a garden, rather than the large apartment system heretofore a feature of housing in Germany. Some three hundred forty thousand dwellings were erected in 1937. Most of the building has occurred in places like Dessau, a great aircraft manufacturing center, in Brunswick, Kiel and Altona, while western industrial centers like Duisberg have only been slightly aided.

One type of government assistance in housing consists in the granting of homes to acceptable married couples on condition that children result from the marriage, the birth of each child cancelling one-fifth of the mortgage. The Labor Front has also carried out workmen's housing schemes such as those in the Palatinate and in Upper Silesia, under which a tenant acquires possession in three years after paying a nominal rent of twenty marks a month and three hundred marks upon occupancy.

4. Religious Affairs.

Point 24 of the National Socialist program states: "We demand the freedom of all religions in the state in so far as they do not endanger its welfare or offend against the morals and sense of decency of the German race. The party as such represents the standpoint of a positive Christianity without binding itself to a particular belief. It fights the Jewish materialistic spirit within and without and is convinced that a permanent convalescence of our nation can only succeed from within on the foundation of public interest before private interest." The *Führer,* in his autobiography and in his utterances since this book appeared, has said that the religious teachings and institutions of his people must remain inviolable, and that the party movement is not concerned with religious reformation. But in practice, the vague phrase

"positive Christianity" has been interpreted in such a way as to permit the totalitarian state to intrude more and more into the religious sphere. The basic assumption of a totalitarian regime is that the state is the final arbiter of all phases of social life, and religion is looked upon as one phase of life. Hence the religious developments in National Socialist Germany have been the natural result of the Nazi *Weltanschauung* and the methods of the Nazi regime.

Early in the Hitler government, a Concordat with the Holy See was concluded.[36] This was a great achievement, for in the previous fourteen years of the republic no understanding with the Papacy could be worked out to the satisfaction of the various German political groups. In fact no Concordat had been concluded with the German Reich since the reign of Pope Eugene IV, a century before Protestantism.[37] Several of the German states, however, had concluded arrangements with the Vatican.

As time has gone on, increasing difficulties have arisen between the Catholic Church and the German authorities. The Hitler Youth and the Labor Front have more and more excluded all other organizations from the field of social activity, and the vigor and influence of such leaders as Dr. Rosenberg and Baldur von Schirach have developed a fanatical German spirit which is anything but Christian and Catholic.[38] Such prominent prelates as Cardinal Faulhaber of Munich have even insisted upon the denunciation of the Concordat. Today with the annexation of Austria to Germany, the situation may be aggravated by the addition of nearly six million Catholics, to the twenty-one million Catholics in Germany proper.

In the Protestant sphere, similar conflicts have occurred.[39] Following the elevation of Hitler's friend Ludwig Müller to the position of Reich Bishop of the Lutheran Church,

[36] See J. B. Mason, *Hitler's First Foes* (Minneapolis, 1936) for a complete treatment of the Catholic phase of the problem. Certain useful documents, such as the concordat, are translated and form an appendix to this work.

[37] See J. B. Mason in *The Catholic Historical Review*, vol. 20, pp. 23-37.

[38] See Stephen Roberts, *op. cit.*, pp. 268-281.

[39] See *Source Book*, IV, pp. 142-157.

the so-called German Christians, with the aid of the Minister of the Interior and the secret police, were able to gain control of the Evangelical Church.[40] A new Ministry for Church Affairs was created in 1935 with Hans Kerrl at the head, which took over the supervisory functions formerly exercised by the Ministers of the Interior and Education.[41] By the law of September 24, 1935, the Minister for Church Affairs "is empowered to enact decrees with binding legal force" in order to restore "ordered conditions" in the Evangelical Church.[42]

In 1937 Hitler issued an order providing for the summoning of a general synod to bring order and peace into the troubled situation.[43] But to date, elections have not taken place. Meanwhile the churches have been permitted to retain their legal rights as corporations of public law, but increasing financial control by the state has developed both in the field of regular church revenues and in the voluntary field.[44] One of the ablest and most outstanding critics of the government church program, Dr. Martin Niemöller, was recently arrested, and although declared not guilty of charges of treason, has been kept under protective custody.

What will result from the church conflict, it is impossible to say. Some of the more extreme Nazi leaders like Himmler would like to break the ties between church and state. Others like Rosenberg, whom Hitler has designated as the cultural leader of the new Germany, are developing a new pagan cult, "a Roman-Protestant Counter Reformation" as Rosenberg refers to it, in which Germanic character values are the eternal fact to which everything else, including religion, has to adjust itself.[45] Hitler himself is fundamentally indifferent to variations in dogma although he does not wish to be considered anti-Christian. He has insisted, however,

[40] See Henri Lichtenberger, *op. cit.*, pp. 187-206.
[41] RGB, I, 1935, p. 1029.
[42] RGB, I, 1935, p. 1178.
[43] RGB, I, 1937, p. 203.
[44] See Roger Wells, "The Church and State in Germany," in *Political Science Quarterly*, vol. 53, pp. 36-60.
[45] See Rosenberg, *Der Mythus des XX Jahrhunderts* (Munich, 1932), 4th edition. Also a recent statement of his appearing in *Nationalsozialistische Partei-Korrespondenz*, no. 204, September 3, 1937, and no. 207 annex, containing his speech at the last party congress.

that everyone accept the National Socialist *Weltanschauung*, and whether the young people will follow the teachings of the Bible of Christianity, the bible of National Socialism, *Mein Kampf*, or "the gospel according to Alfred Rosenberg," remains to be seen.[40]

[40] Consult George N. Shuster, *Like a Mighty Army. Hitler versus Established Religion* (New York, 1935), and Waldemar Gurian, *Hitler and the Christians* (London, 1936).

CHAPTER VIII

GERMANY'S POSITION IN THE WORLD

Twenty years after the Armistice and five years after the accession to power of Adolf Hitler, it is rather difficult for us to realize the extent of the German military collapse in the Great War, as well as the political and economic consequences of the treaties which emerged out of the Paris peace conference. But the inclusiveness and severity of the peace treaties are patent to anyone who will peruse their contents, and their administration in the post-war years not only left much to be desired, but actually helped to lay the foundations for the Hitler government which has now torn the treaties to pieces.[1]

1. The Inheritance of Versailles.

A brief recapitulation of the terms imposed on Germany following the war is quite necessary and quite revealing.[2] First of all, Germany's military power was utterly destroyed. Part V of the treaty contained almost every conceivable provision to weaken the German military position. The army was limited to one hundred thousand men to be recruited on a long term basis. Universal military service was also abolished. Boundary fortifications were likewise razed and their rebuilding prohibited. The Rhineland was occupied by

[1] Consult J. M. Keynes, *The Economic Consequences of the Peace* (New York, 1920). Also Harold G. Moulton, *Germany's Capacity to Pay* (New York, 1923).

[2] For a careful treatment of post-war European affairs consult Arnold J. Toynbee, *Survey of International Affairs* (London). The first volume published in 1925 covered the years 1920-1923. Successive annual volumes have appeared since that time. This series is supplemented by another series by J. W. Wheeler-Bennett, *Documents on International Affairs* (London). The first volume for the year 1928 appeared in 1929. Successive annual volumes have appeared since that time.

foreign troops until 1925 and its militarization altogether prohibited. Strict limits were placed on the manufacture of military weapons and huge quantities of war material were destroyed. The island of Helgoland, bulwark of German naval defense, was dismantled. The Kiel Canal was opened to the commerce of all nations, and the navy was destroyed.

In the second place, various parts of Germany were taken away from her, either for the time being, pending plebiscites, or permanently. In the former category were the Saar, Schleswig, Upper Silesia and parts of East Prussia, and in the latter category were Alsace and Lorraine returned to France, Eupen and Malmedy to Belgium, and the so-called Polish Corridor, consisting of parts of the former Prussian provinces of West Prussia and Posen, given to Poland. The port of Danzig, made a Free City was brought under the supervision of the League of Nations, and the city of Memel was handed over first to the allied powers and then to Lithuania. These territorial losses deprived Germany of some of her most valuable mineral deposits, reduced her population by 10 per cent (six million four hundred seventy-five thousand people) and her area by 13 percent (twenty-seven thousand two hundred fifty-two square miles).

Furthermore, Germany's colonies in various parts of the world, amounting to some one million twenty-seven thousand square miles of territory with a population of about fourteen million persons (only twenty-four thousand whites), were taken from her and distributed as mandates under the League of Nations to various powers, namely, Great Britain and her Dominions, France, and Japan.[3] Germany was also required to internationalize her waterways by bringing them under the jurisdiction of the various international river commissions. And Austria, now a part of Germany (which under the international law of succession assumes Austria's obligations), was required to protect the various minorities within her boundaries.

Finally, through the system of reparations established in the treaty of Versailles, Germany was required to make vast payments to the Allies by way of reparation for the damage

[3] Germany also lost in connection with her colonies an invested capital of five hundred five million marks.

inflicted by Germany in the course of the war. These payments were both in cash and in kind, that is, in goods of all sorts such as cattle, coal, vehicles, and food. A Reparations Commission was charged with the strict supervision of German finances, and the German railways were mortgaged to ensure payments to the Allies. Scores of further restrictions were placed on Germany by the treaty, but those enumerated are sufficient to show the crushing terms imposed by the victors on the defeated Germans.

In retrospect it is not difficult to observe the many mistakes, political, economic, and moral, which were made at Versailles. The treaty, instead of making "possible the introduction of a general limitation of the armaments of all nations," brought above the reverse. Instead of strengthening a peaceful spirit in Germany, it accomplished just the opposite. Instead of building up the democratic system, it actually undermined it. Even when Germany was admitted to the League of Nations as a full member in 1926, her international obligations were not made easier, and with the onset of the world depression in 1931, she became the natural victim of an international policy of selfishness and repression.

2. The Dissolution of the Peace Treaties.

Although the patient and reasonable foreign policies of Stresemann and Brüning developed admiration and respect for Germany, it is significant that it was not until the republic was crumbling that the Allied and Associated powers agreed to the elimination of reparations. Although Dr. Brüning might have been able to stop the tide of extreme political agitation, had he secured the prestige which would have been his if reparations had been cancelled in February of 1932, instead of a few months later, the Allies hesitated until after Brüning was forced to resign.

Following the elimination of reparations, Adolf Hitler's accession to power presaged a frontal attack on the whole Versailles edifice.[4] The world was not long kept in suspense. On October 14, 1933, the *Führer* announced Ger-

[4] A very fair discussion of German foreign policy is found in Lichtenberger, *op. cit.*, pp. 85-133.

many's withdrawal from the League of Nations as well as from the work of the Disarmament Commission. The German people were called upon to approve this action in a plebiscite which was held on November 12, 1933. The next important move occurred on May 21, 1935, when Hitler announced Germany's denunciation of the military portions of the Versailles treaty. German rearmament, which had been speeded up in the two previous years, was now given full steam ahead. Compulsory military service was established and on August 24, 1936, the length of active military service was set at two years.[5] Although Hitler had announced his willingness to stand by the Locarno treaty in 1935, one year later on March 7, 1936, he repudiated this treaty, and announced the entry of German troops into the demilitarized zone of the Rhine. This startling move was a grave threat to peace and Mr. Anthony Eden, the British Foreign Secretary, declared at the time that "the abrogation of the Locarno treaty and the occupation of the demilitarized zone have profoundly shaken confidence in any engagement into which the government of Germany may, in the future, enter. . . . It strikes a severe blow at the principle of sanctity of treaties which underlies the whole structure of international relations."

Finally, on January 30, 1937, on the fourth anniversary of the National Socialist Revolution, Hitler declared to the Reichstag: "I solemnly withdraw the German signature from that declaration which was once enforced on a weak government against its better judgment and according to which Germany was guilty for the war." Thus the guilt for the war was denied and the treaty itself repudiated. Following his arrival in Austria on March 12, 1938, Hitler gave the occasion for his Austrian host, the new Governor, Dr. Seyss-Inquart, to declare article 88 of the treaty of St. Germain null and void.[6] It was this provision which had stood in the way of the union of Austria with Germany, and which in 1931 was invoked to prevent the custom's union. Thus Versailles and St. Germain have been torn up and thrown in the

[5] See *Source Book*, IV, pp. 85-93.

[6] Under article 80 of the Versailles treaty, Germany had agreed to respect the independence of Austria.

waste basket by a determined, powerful National Socialist government. In five years Germany has freed herself of the restraints placed upon her as a result of the war. She has been able to achieve a status of equality among the nations of the world and to extend her sovereignty over an area she never previously possessed. The Saar has also been reunited with Germany, and excluding her former colonies abroad and her former border territories at home (now largely offset by the possession of Austria), Germany is nearly as well off territorially as before the war.

3. Hitler's Ideas of Foreign Policy.

With almost uncanny precision, the *Führer* has followed the foreign policy which he laid down in *Mein Kampf*. In this remarkable autobiography, Hitler first of all declares that "territory and soil are the goals of our foreign policy." [7] Germany, he contends, is crowded for space and is unable to support her expanding population on the territory she now occupies. Consequently, new territories must be made available to Germany. But how are these territories to be acquired? Hitler leaves no doubt on this point. "We must be perfectly clear," he wrote, "that the recovery of lost provinces is not achieved by solemn invocations of the Beloved Lord, or through pious hopes in a League of Nations, but only through armed violence." [8] In another portion of *Mein Kampf* he said: "Oppressed territories are not acquired by flaming protests but by a strong sword." [9] His Minister of Propaganda has stated the same point in these words: "The only instrument with which one can conduct foreign policy is the sword, the sword alone and exclusively." [10]

But Hitler realized that Germany alone might not be able to achieve these goals of her foreign policy. To this end, therefore, he has proposed alliances with Italy and with England. France is now and always has been, in Hitler's opin-

[7] *Mein Kampf*, p. 745.
[8] *Ibid.*, p. 708.
[9] *Ibid.*, p. 689.
[10] Quoted in Roberts, *op. cit.*, p. 122.

ion, Germany's principal enemy.[11] Russia similarly stands in the way of German expansion, and possesses territory which Germany needs.[12] By joining forces with Italy and England, Hitler feels that Germany will be able to keep France in her place, and expand eastward into Russia. "One arranges an alliance only for a fight," wrote Hitler. "An alliance whose goal is not pointed toward a war is senseless and worthless." [13]

This belligerent policy for acquiring territory is also joined with a program of racial unification of all Germans which is mentioned in the first point of the party program. "We demand the union of all Germans in one great Germany by the right of self-determination of peoples" reads the party program. This policy might conceivably become a serious threat to peace, and as appears later in this chapter, the National Socialists have taken definite steps to propagate the German doctrine all over the world, and to interest themselves in a series of situations outside the boundaries of Germany.[14]

In his speeches since becoming Chancellor, Hitler has been at times pacific and at times belligerent. His speeches in 1933 were mostly conciliatory, and in his speech of May 21, 1935, when he repudiated the military sections of the Versailles treaty, he declared that "whoever raises the torch of war in Europe can only wish for chaos. Germany needs peace and wants peace. Germany has nothing to gain from any European war. What we want is liberty and independence." Again in his speech of January 30, 1937, on the fourth anniversary of the National Socialist revolution, he stated that

[11] His words in *Mein Kampf* are: "France is now and remains the unrelenting, mortal enemy of Germany" (p. 699). In three hundred years he predicts that France will be overwhelmed by its inferior colonial races and that an area extending from the Rhine to the Congo will be ruled by this negroid mixture of the ancient Franks (p. 730).

[12] Hitler's latest reference to Russia is as follows: "There is only one state with which we have not sought to establish good relations, nor do we wish to enter into close relations with Soviet Russia. More than ever do we see in Bolshevism the incarnation of the human destructive instinct."

[13] *Mein Kampf*, p. 749.

[14] German racial policies have produced serious problems in the international field. See O. I. Janowsky and Melvin M. Fagan, *International Aspects of German Racial Policies* (New York, 1937).

"the time of so-called surprises has been ended" and "Germany, conscious of its European task, will cooperate loyally in removing the problems which move us and other nations." In his Reichstag pronouncement on February 20, 1938, he repeated that "Germany has a sincere desire to restore mutual confidence between herself and all the great powers of Europe, as well as with other states."

But actions speak louder than words. At the very moment Hitler is declaring that "Germany has no further territory in Europe to claim from France," his party comrades are placing flowers on "the grave of Alsace-Lorraine" in the Feldherrnhalle in Munich. Three weeks after he declared in his Reichstag speech that his relations with Austria were being carried on "within the framework of the treaty of July 11" which guaranteed Austria's territorial integrity and political independence, German troops under his orders took over Austria. At the present time in pursuance of his policy of unifying all Germans, Czechoslovakia is being attacked with all measures short of actual war. Quite clearly the political testament at the end of *Mein Kampf* is being followed: "Never allow two continental powers to emerge in Europe. Look upon every attempt to organize a second military power on the borders of Germany, even though it be only in the form of a potential military state, as an assault against Germany, and view it not only as your right but as your duty to use all means, not barring force of arms, to prevent the emergency of such a state and to overthrow it if such a state already exists." [15]

4. The Present Diplomatic Picture.

In pursuance of German policy, the National Socialist government has entered into certain treaty relationships, has developed certain diplomatic understandings, and has made certain formal international declarations. The first important treaty which was agreed to by Hitler was the Polish-German non-aggression pact of 1934. Both Hitler and the Polish dictator Pilsudski, needing foreign prestige, completed an agreement which bans war between the two countries for a

[15] *Mein Kampf*, p. 754.

ten year period. In the notes accompanying this treaty, both countries agreed to control their propaganda in such a way that it would not injure the other country. Unique in diplomatic negotiations up to this time, the propaganda agreement has made it much easier for Germany to silence the deep resentment within Germany against the Polish Corridor. Outwardly the only other difference which the pact seems to have made, is that German propaganda against the Corridor instead of being printed in Germany is now printed in Danzig! Although Germany continues to be angry at the existence of the Corridor which separates East Prussia and Danzig from the Reich, and although the Germans are resentful of the Upper Silesian situation, the government is being very careful to retain the good will of Poland.

Another agreement of some importance was concluded on June 18, 1935, the so-called Anglo-German Naval Agreement. By this treaty a ratio between the navies of the two countries has been established, and the possible threat of naval rivalry between Germany and Britain has been averted. On July 17, 1937, another supplementary agreement was signed between the two countries which has the effect of bringing Germany within the scope of the London Naval Treaty of 1936 to which the United States and France are also parties. Under these agreements, a permanent ratio between the British and German fleets is established in the proportion of one hundred to thirty-five.

More important than either of these agreements is the understanding which was established in 1936 between Italy and Germany. This so-called Rome-Berlin axis has become the primary instrument of present-day German diplomacy. In 1937, Mussolini visited Germany and was received as a hero. He was given unusual opportunities of viewing the state of German rearmament, and when Germany annexed Austria, Mussolini's non-interference called forth Hitler's famous telegram: "Mussolini, I shall never forget it." In May of 1938, Hitler visited Italy amid pomp and ceremony, and made renewed assurances that Germany's boundary was to remain at the Brenner. In the light of the Anglo-Italian agreement which was completed shortly before Hitler's visit, it appears, however, that the Rome-Berlin axis is a sort of

marriage of convenience for the two dictators. In Hitler's speech of February 20, 1938, he pointed out that "Italo-German relations are based on conceptions of life and state policy common to both nations, as well as on cooperative action in warding off the international dangers that menace both of us. . . . The Italo-German friendship, springing as it does from definite sources, has become an element of stabilization in the appeasement of Europe." How binding the German and Italian relationship is has not been disclosed, and there are signs both in Germany and Italy of its unpopularity. Nevertheless, the Rome-Berlin axis fits in with Hitler's foreign plans, and follows closely the ideas he expressed in *Mein Kampf*.

The solemn agreement with Japan, signed on November 25, 1936, constitutes another part of the present German diplomatic picture. This treaty, which incidentally was signed by special diplomatic representatives, and not by the two country's Foreign Ministers or regularly accredited Ambassadors, was negotiated to combat the activities of the Communist International or Comintern. It provides that the two states will inform one another of the activities of the Comintern, will consult on the necessary preventive measures, and will carry such measures through in close collaboration. This "holy war against red anarchy" is intended to fortify the German-Italian understanding and in the words of Hitler "presents the most powerful of all obstructions to the further advance of the menacing power of Russian Bolshevism." Considering Japan's serious preoccupation in China, this pious agreement is not likely to strengthen Germany's military or international position. In fact, it even causes some embarrassment in German-Chinese trade relations, although it has not prevented Chiang Kai-Shek, the Chinese Generalissimo, from having secured the valuable aid of several former German army officers.

A number of official declarations by the German government in recent years should be mentioned to complete the diplomatic picture. First, Germany announced in 1936 that she considers herself bound by Part IV of the London Treaty of 1930 dealing with submarine warfare. Second, on February 26, 1937, an announcement of the *Führer* dealing with

the relations between Germany and Switzerland was made in the Swiss Federal Council. This statement said: "At all times, and come what may, we shall respect the inviolability and neutrality of Switzerland." Following this announcement regarding Switzerland, on October 18, 1937, the German Foreign Minister handed a note to the Belgian Ambassador in Berlin in which the German Government undertakes to respect the inviolability and integrity of Belgium and "in no circumstances" to impair this inviolability and integrity. The German Government furthermore promised to give support to Belgium in the event of that country's being attacked. In his speech of January 30, 1937, Hitler remarked: "The German Government has assured Belgium and Holland of its readiness to recognize and guarantee these states as untouchable and neutral regions for all time." Holland is therefore included among the smaller states bordering on Germany whose neutrality Germany has recognized. One final diplomatic action of the Hitler government should be mentioned. On November 18, 1937, the insurgent government of Spain under General Franco was recognized by Germany as the responsible government of that country and regular diplomatic arrangements were entered into with the rebel forces. Simultaneously Italy also extended recognition to the Franco government.

5. *The Colonial Problem.*

Germany was deprived of her colonial possessions after the war.[16] Under sections 118 to 127 of the Versailles treaty, her million square miles of colonial territory were divided among several powers which became responsible to the Mandates Commission of the League of Nations for the proper administration of the colonies.[17]

[16] *Germany's Claim To Colonies*, report of the Royal Institute of International Affairs, London, May, 1938. See also Mary E. Townsend, *The Rise and Fall of Germany's Colonial Empire, 1884-1918* (New York, 1930).

[17] Good maps showing the location of the former German colonies appeared in *The London Illustrated News*, vol. 191, p. 832 (November 13, 1937).

The Group B mandates were as follows:

1. German East Africa (Tanganyika territory), British mandate.
2. Ruandi-Urundi, Belgian mandate.
3. Cameroons, eastern part French mandate, western part British mandate.
4. Togoland, eastern part French mandate, western part British mandate.

The Group C mandates were as follows:

1. German South West Africa, Union of South Africa mandate.
2. German New Guinea, Bismarck Archipelago, and Solomon Islands, Australian mandate.
3. Island of Nauru, British, Australian, and New Zealand mandate.
4. South Sea Islands north of the Equator (Marianne, Marshall, Pelew, and Caroline), Japanese mandate.
5. Samoa, New Zealand mandate.

In addition to these areas, Japan, in 1914, seized Kiao Chow in China, the German leasehold, but returned it to China in 1922.[18]

As a part of her campaign for equality and the restoration of national honor, it is natural for the National Socialists to agitate for the return of the former German colonies. With the development of the Four Year Plan to make Germany economically self-sufficient, it is also natural for the Germans now to emphasize the economic aspects of the problem. But whether for reasons of strategy, prestige, or economic advantage, the Nazis are now strongly insisting on the restoration of their former colonial territories.

Hitler's opinion expressed in *Mein Kampf* was to the effect

[18] Of these areas only South West Africa, German East Africa, and German New Guinea are of potential value to Germany. But it is difficult to see how Germany can secure the return of South West Africa without war. Her chances in East Africa are somewhat better, and New Guinea might be yielded up. The former German possessions in the Pacific, now held under mandate by Japan, have been passed up by Hitler who recently disclaimed any desire for their acquisition.

that colonial expansion should not be considered "until the confines of the Reich include every single German." But he has not prevented the development within the party of a very active colonial department under Ritter von Epp, and he has encouraged the activities of various societies within the country which have been agitating the colonial question. His latest words given in his Reichstag speech of February 20, 1938, were these: "The claim for German colonies will be voiced from year to year with increasing vigor." [19]

These words probably indicate that the former colonies are being used as a bargaining weapon in the general diplomatic activity. No formal demands have been made for their return, but the general preoccupation with European affairs is quite a sufficient reason for keeping the colonial question in the background. Meanwhile the colonial problem provides a very useful instrument of propaganda within the country. This propaganda has even been extended to some of the former colonies, notably South West Africa, and it appears likely that in the not far distant future the problem of propaganda overseas will have to be faced squarely by all the powers concerned. The absence of a German navy together with the stubbornness of the mandatory powers have accounted for the lack of progress to date. The colonial question conceivably may be settled in the same way as the disarmament question was settled, namely, by unilateral action by Germany. As the German economic shoe pinches tighter, it is to be expected that Dr. Schacht's two conditions may be insisted upon: that "Germany must be able to produce her raw materials in a territory under her own administration; and second, German currency must be circulated in that colonial territory." [20] Germany at least feels that if the present age of economic war is to become a permanent condition, the political control of overseas markets will become a necessity for every highly industrial state.[21]

[19] He disclaimed any desire to re-acquire the former German colonies now held under mandate by Japan.

[20] *Foreign Affairs*, vol. 15, pp. 223-235.

[21] See G. Kurt Johannsen and H. H. Kraft, *Germany's Colonial Problem* (London, 1937).

6. The Conduct of German Foreign Relations.

The German Foreign Office has always been one of the strongholds of the bureaucrats and the aristocrats. Its power and its efficiency, despite occasional stupidity, have never been seriously questioned. Until the shake-up in February, 1938, the Foreign Office, together with its diplomatic personnel all over the world, hardly felt the impact of the National Socialist revolution. Under the administration of Baron von Neurath, a career diplomat of the old school who had never been sympathetic with the Weimar regime, the Foreign Office continued to function quite as before Hitler's time. There was some party penetration into a few positions in the foreign service, and Hitler came more and more to rely upon his friend von Ribbentrop to execute his foreign diplomatic plans.

But in 1938, Ribbentrop was made Foreign Minister, and a new secret council on foreign affairs was set up to coordinate German foreign policy.[22] As has already been pointed out, leading party figures and representatives of the armed forces were placed on the council. Simultaneously important changes in leading diplomatic posts abroad took place, and an aggressive policy toward Austria took shape, eventuating in the annexation of that country.

The Foreign Office, if not the entire foreign service, has therefore been brought under the close control of Hitler and his chief party advisers. Dr. Rosenberg, who heads the party's office on foreign affairs, does not appear to occupy a very important place in the determination of foreign policy. But Ribbentrop, now Foreign Minister, together with Goebbels and Göring, both on the new foreign council, are most influential.

One great change in the activity of the Foreign Office is the great extension of propaganda activities abroad. Pursuing point one of the party program, the Nazis count as a part of Greater Germany the thirty-odd millions of former Germans who are spread all over the world. In order to maintain proper contacts with these people, the party maintains a special bureau headed by Ernst Wilhelm Bohle. In 1937 a

[22] RGB, I, 1938, p. 112.

Foreign Organization was established in the Foreign Office "for the uniform guardianship of the Germans abroad." Herr Bohle became the head of this new organization with responsibility both to the Foreign Minister and to the Deputy Party Leader, and with the power of taking part in Cabinet meetings when his office is concerned.[23]

Along with this new Foreign Office organization, the Propaganda Ministry has been active in developing information services in various countries, and in using the radio to reach Germans all over the world. Unprecedently large sums are now made available for these services. At a recent Congress of the German Foreign Institute, three members of the Cabinet voiced the hope that Germans abroad would manifest their loyalty to the National Socialist cause, and not permit their interest in German culture to disappear.

How far the Nazis intend to apply their program for uniting "all Germans in one Great Germany" is not clear. There are a million Germans in Russia, and two hundred seventy thousand Germans in Luxemburg, not to mention the Germans in Poland and Czechoslovakia and the Tyrol. If point one of the party program is to become the cardinal point in German foreign policy, then in truth European affairs in the next decade will be fraught with new dangers.

7. *Emerging Problems of German Foreign Policy.*

As Germany faces the future, a number of serious problems of foreign policy arise. Since the annexation of Austria, greatest attention has been given to German relations with Czechoslovakia. In his speech of February 20, 1938, Hitler claimed the right to protect "those fellow Germans who live beyond our frontiers and are unable to ensure for themselves the right to a general freedom, personal, political, and ideological." The tension resulting from this speech, the annexation of Austria which followed it, as well as from the

[23] RGB, I, 1937, p. 187. Herr Bohle in a speech on October 1, 1937, stated the purpose of the new Foreign Organization to be "to take these National Socialist Germans living abroad and bring them together in local groups and national groups so that their love for the homeland—that is to say, the National Socialist homeland—is kept alive and strengthened, and also the sense of national comradeship among themselves." See also Ernst Wilhelm Bohle, *Das Auslandsdeutschtum* (Berlin, 1935).

aggressive tone taken by Konrad Henlein, the leader of the so-called *Sudenten deutsche Partei*, has made peaceful solution of the problem very difficult.[24]

Germany has insisted that the only acceptable policy for Czechoslovakia to follow is one which is in close harmony with that of the Reich. But to do this Czechoslovakia would have to abandon its defensive agreements with France and Russia, and adopt an attitude of benevolent neutrality similar to that of Poland. The adoption of such a policy by Czechoslovakia would amount to yielding up her status as an independent nation. This she is not likely to do, for after all, the Czechs have as intense an interest in the preservation of their own territory as do the Germans in theirs. The Czechs, Slovaks, and Moravians settled in the territories which they now occupy during the Slav invasions of the fifth and sixth centuries, and for five centuries (1068-1526) Bohemia was an independent kingdom. Following their defeat by the Austrians in the Battle of White Mountain in 1620, the Czechs were deprived of their independence and the Slovaks were brought under Hungarian domination. A strong nationalist movement, however, persisted, and in 1918 under Masaryk and Benes, the independence of Czechoslovakia was proclaimed. Czechoslovakia is not therefore an entirely new state but rather the re-emergence of a former kingdom into the status of a new independent republic.

Nevertheless, some three million five hundred thousand Germans now live within the boundaries of Czechoslovakia. Most of them have been formed into an effective party organization which works in close cooperation with Berlin.[25] Enlarging upon such grievances as exist in the matter of schools, language, and official business, the Henlein-led Germans are insisting upon complete autonomy for the German-speaking part of Bohemia. To grant this request would mean the disintegration of the Czechoslovak state. Furthermore, never in history have these areas formed a separate political or economic whole.

[24] See *Bulletin of International News*, vol. 13, no. 18, and vol. 15, no. 7.
[25] Hans Krebs, formerly of Inglan, Czechoslovakia, has been given the rank of Nazi district leader. He was given no district but the general deduction has been that his job would be in the Sudetic German region.

With Austria under his control, Hitler is in a position to isolate Czechoslovakia both in an economic and a military sense. The complaints of the German minority give him a useful weapon with which to insist upon a more benevolent policy on the part of Czechoslovakia. But the government of Czechoslovakia appears determined to protect its independence, and considering their arrangements with France and Russia, Germany would be bold indeed if she took steps to start a war with Czechoslovakia.

The control of Vienna has additional importance to Germany aside from its Czechoslovak implications. The main lines of communication with Southeastern Europe, by road, by rail, and by river are now at Germany's disposal. A new *Drang nach Osten* is now possible. There are indications of increased German penetration into Jugoslavia, Rumania and Bulgaria.[20] Germany has also endeavored to detach Rumania and Jugoslavia from the Little Entente, and to keep Czechoslovakia from working out satisfactory arrangements with Poland. Hungary too has come within the orbit of German influence, and as a close neighbor may now be expected to cooperate with Germany. A perfect maze of treaty relationships exists in this whole Danubian region, and to date the situation has not taken very definite form. From the present ferment and furious negotiation now going on, a clearer picture may well emerge in the next few years.

Another important problem of German foreign policy relates to Danzig, the Polish Corridor, and Memel. Apparently the needs of the present situation have determined the attention paid to the various parts of the German expatriate picture. Whereas Austria and Czechoslovakia have been kept to the forefront, relations with Poland involving the very sore Upper Silesian question as well as the problem of the Corridor and Danzig have been kept very quiet. This is not to say that Germans do not complain about the "oppression and mutilation introduced by the frontier demarcation of Versailles." It merely means that for the time being Poland is being left alone.

[20] See the excellent study by Helen Fisher on "Cross-Currents in Danubian Europe," in *Foreign Policy Reports*, vol. 13, no. 9.

Meanwhile, Danzig has been thoroughly nazified. The new League Commissioner in the Free City seems to be more acceptable to the Germans, and workable commercial relations between Poland, Danzig, and Germany have been provided in the treaty of February 20, 1937. Field Marshal Göring loses no opportunity to hunt in the eastern part of Germany and in Poland, in order to keep up good relations with the Polish government leaders. Nevertheless, Poland has pursued a somewhat contradictory foreign policy. In addition to the Polish-German treaty of 1934, a rapprochement with France at the end of 1936 seemed to have been arranged through the granting of an important loan. Furthermore, the Polish-German treaty of 1922, regulating the treatment of minorities in Upper Silesia, expired in July, 1937, and has not been renewed. On the other hand, the Polish threat to Lithuania in 1938, which led to the recognition by that power of the Polish annexation of Vilna, followed very closely on the German annexation of Austria. Whether the German-Polish pact of 1934 has any more validity than the earlier Polish-Russian pact or the understandings with France, Rumania, and Czechoslovakia is not clear. In any case, the German resentment against the Corridor and Danzig remains. A nationalistic and militaristic National Socialist government can hardly be expected to ignore this part of German irredenta indefinitely.

Memel, the sole Baltic port of Lithuania, is another object of National Socialist indignation. This predominantly German city has long been an outpost of German rule. Under article 99 of the Versailles treaty, Memel was given up to the Allied Powers. But when the Lithuanians by a coup d'état in 1923 seized the area, the Council of the League recognized Lithuanian sovereignty, provided the convention which guaranteed a large degree of local autonomy was respected.[27] From the beginning the Germans have complained about the arrangement, and there is much reason to the German argument that they have not only been improperly deprived of territory which rightfully belongs to them, but that Germans have been subjected to bad treatment by the Lithuanians. In the last election to the local chamber, Lithu-

[27] Toynbee, *op. cit.*, 1920-1923, pp. 256-261.

anian candidates only received five seats out of twenty-nine. At the proper moment, therefore, Greater Germany, now motivated by intense racial feeling, can be expected to deal with tiny Lithuania and re-acquire the city of Memel.

Germany's economic and financial position, as we have seen, although not promising is not critical. Under a system of drastic control of all foreign trade and financial transactions, all imports not actually necessary for national purposes have been eliminated. Trading has been placed largely on a basis of barter, and the policy of economic self-sufficiency has led to the development of synthetic products.[28] But until Germany can modify some of her economic policies and aid in the pacification of Europe, there is not likely to be a revival of German exports, and an expansion of exports is necessary to pay for imports and replenish the very low reserve of gold and foreign exchange. Thus Germany's precarious international position is likely to continue until National Socialist policies in the economic sphere are modified or superseded. World trade in the meantime languishes and a tightening of the system of economic control at home becomes necessary.

This review of German foreign policy leads inevitably to the conclusion that dangerous days lie ahead. Twenty years after a world war fought to stop German hegemony on the continent of Europe, the world is now confronted with a powerful, resurgent Germany which is pursuing a foreign policy not much different from that of the Kaiser. Germany has regained her equality and her sense of national honor, but she has at the same time loosed the dogs of war. Her great rearmament program has led to vast increases in French and British armaments, and to the development of two groupings of world powers.

And most recently her annexation of Austria has worked a great change in the whole European situation. Germany is now a neighbor of Italy, and her territory now surrounds that of Czechoslovakia on three sides. Somewhat apprehensive of these developments, Mussolini has completed an

[28] See Vaso Trivanovitch, *Economic Development of Germany Under National Socialism*, chapters IV and V (Report of the National Industrial Conference Board).

agreement with Great Britain, and France and Great Britain have come closer to each other than at any time since the war. The powerful Russian military force continues to be a stabilizer in European affairs, for as Hitler recently remarked in speaking of Communist Russia: "We all know that sheer force of numbers is of supreme importance."

Germany rearmed and aroused to a high pitch of national enthusiasm now faces the world with a program of territorial aggrandizement and racial unification. Her gains to date have been impressive and have been secured without war. Perhaps the turning point in German foreign policy has now arrived and appeasement may follow. Or perhaps Europe and the world will be once more plunged into war. Time alone will give the answer.

BIBLIOGRAPHICAL NOTE

The footnotes have provided numerous leads to the extensive literature on German political institutions. A bibliographical note, however, is not inappropriate, and, it is hoped, will give some additional assistance to those who desire to develop the subject further. The following list of references is suggestive of the more important materials.

I. Official and Semi-Official Publications:

Laws, decrees, orders, and announcements are published in the *Reichsgesetzblatt* (RGB), in the *Reichs-und Preussischer Staatsanzeiger,* and in the *Ministerialblatt des Reichs-und Preussischen Ministerium des Innern.* Prussian laws and decrees are still published in the *Preussische Gesetzsammlung* (PrGS), and there are similar publications in other states. Stenographic reports of the occasional Reichstag sessions are found in *Verhandlungen des Reichstags.*

Two indispensable collections of German laws and decrees, arranged in systematic order, and containing as well the motivation and reasoning behind legal enactments, are Werner Hoche, *Die Gesetzgebung Adolf Hitlers,* and Hans Pfundtner and Reinhard Neubert, *Das neue Deutsche Reichsrecht.* These volumes appear within a few months after the publication of the laws and orders in the *Reichsgesetzblatt.*

General information about the various agencies of government and their personnel is given in *Handbuch für das Deutsche Reich.* Since all the important National Socialist leaders are now members of the Reichstag, a useful biographical aid is *Der Reichstag,* a publication issued after each election.

Statistical data are found in the publications of the *Statistisches Reichsamt: Statistisches Jahrbuch für das Deutsche Reich; Vierteljahrshefte zur Statistik des Deutschen Reichs;*

and the bi-weekly magazine *Wirtschaft und Statistik.* There is also a *Statistisches Jahrbuch deutscher Gemeinden* published under the direction of the Union of Cities, and extensive statistical reports are published by individual German cities.

Practically all government departments and institutions publish reports and gazettes at regular intervals. In this group are the *Amtsblatt der Reichsfinanzverwaltung, Reichsarbeitsblatt, Reichs Gesundheitsblatt, Amtliche Nachrichten für Reichsversicherung,* the *Reichs-Verkehrsblatt,* the *Ministerialblatt für Wirtschaft,* and numerous others.

German court decisions are not so important as in the United States but they are published in various reports: *Entscheidungen des Reichsgerichts in Zivilsachen* and in *Strafsachen; Entscheidungen des Preussischen Oberverwaltungsgerichts; Entcheidungen der Sozialen Ehrengerichte* and *Entscheidungen des Volksgerichtshofs.* Decisions of the various special administrative courts, such as the National Poor Law Board and the National Economic Court, are also published.

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III. Periodicals, Yearbooks, and Handbooks:

The magazines dealing with German government are legion. For the American reader the most useful are *Reichsverwaltungsblatt, Der Gemeindetag, Die Landgemeinde, Deutsche Verwaltungsblätter, Verwaltungsarchiv, Deutsches Recht, Archiv des öffentlichen Rechts, Juristische Wochenschrift, Zeitschrift der Akademie für Deutsches Recht,* and *Deutsche Justiz.*

The *Jahrbuch des öffentlichen Rechts* is especially valuable. The *Jahrbuch der Landgemeinde* and the *Jahrbuch für Kommunalwissenschaft* provide much light and leading in the local government field. The *Nationalsozialistisches Handbuch für Recht und Gesetzgebung* is an important work published in Munich in 1935 and now being brought up to date with an appendix. It contains useful bibliographical references. The *Handwörterbuch der Rechtswissenschaft* contains a number of valuable articles. The *Nationalsozialistisches Jahrbuch* is an indispensable reference work. The *Staatshandbuch des Volksgenossen* (Berlin, 1936) is a useful work of general reference on government and administration.

An extensive analysis of every phase of German government under the National Socialists is given in three volumes entitled *Die Verwaltungs-Akademie.* Some seventy authoritative monographs, written by leading scholars and officials and issued by Dr. Lammers and Hans Pfundtner, the head of the national chancellery and the secretary of state in the Ministry of the Interior, respectively, are included in this important handbook. A few of the contributions listed in the work have not yet been published. Three other useful monographic collections should be mentioned: Georg Kaisenberg and F. A. Medicus, *Das Recht der Nationalen Revolution* (Berlin); *Recht und Staat in Geschichte und Gegenwart* (Tübingen); Carl Schmitt, *Der Deutsche Staat der Gegenwart* (Hamburg).

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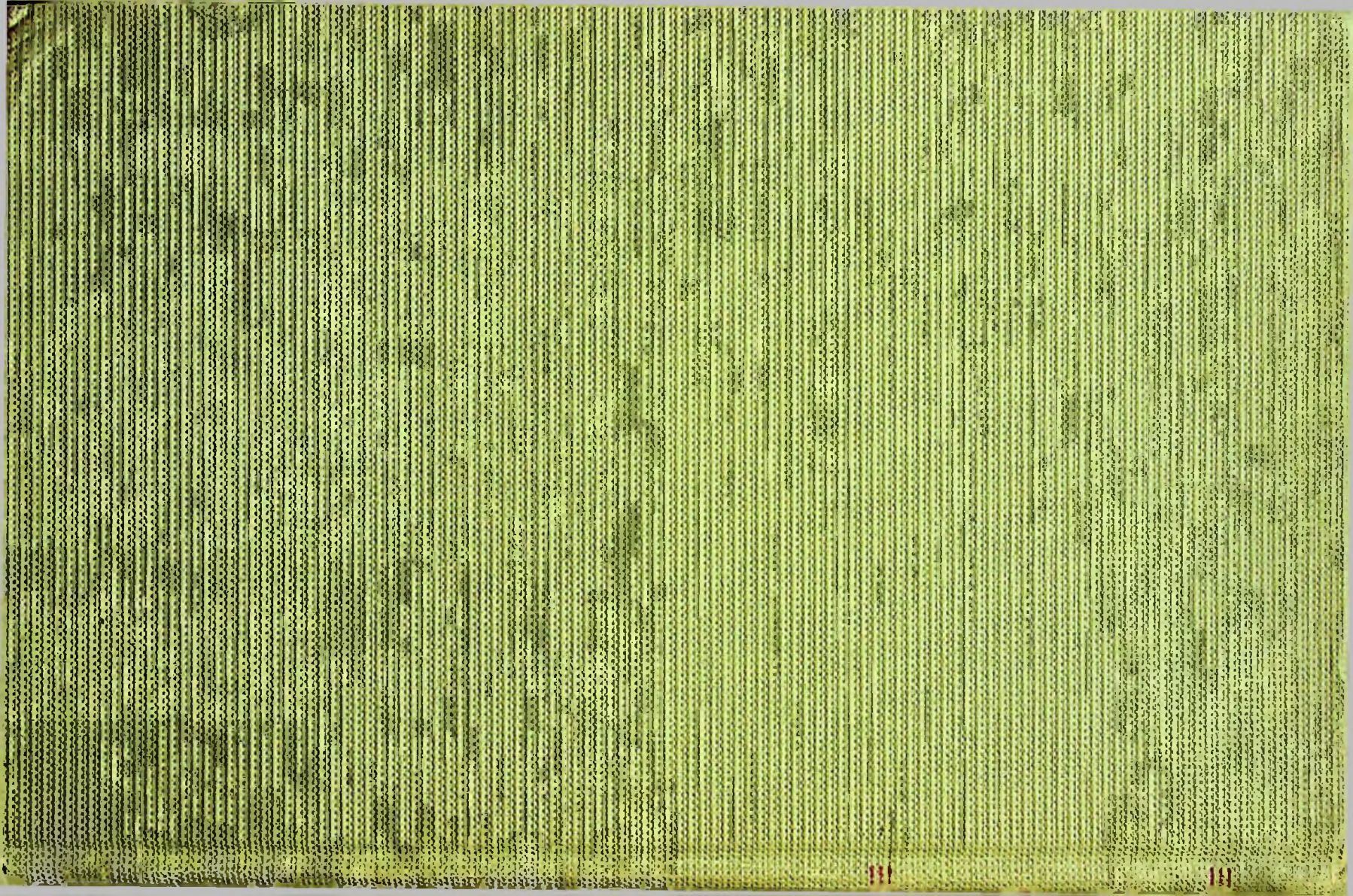
GERMANY
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SCALE OF KILOMETERS
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SCALE OF MILES
Conic Projection
Capitals of Countries
State Capitals
Provincial Capitals
Canals
International Boundaries
State Boundaries
Provincial Boundaries
Railroads
POPULATION SCALE
Over 1,000,000
500,000--1,000,000
100,000--500,000
50,000--100,000
25,000--50,000
Less than 25,000
GREATER BERLIN
WIEN
THE RUHR BASIN
NORTH SEA
BALTIC SEA
SWEDEN
DENMARK
Bornholm (To Denmark)
Pommersche Bucht
Danziger Bucht
Ostpreussen
DANZIG
Königsberg
Gdynia
Zoppot
Elbing
Marienburg
Allenstein
Ortelsburg
Neidenburg
Grajewo
Lomza
Bydgoszcz
Thorn
Mlawa
Ostroleka
Grudziadz
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Flensburg
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Oldenburg
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Bielefeld
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Essen
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Metz
Saarbrücken
Saarlautern
Neunkirchen
Kaiserslautern
Ludwigshafen
Mannheim
Karlsruhe
Pforzheim
Stuttgart
Heilbronn
Würzburg
Aschaffenburg
Fulda
Kassel
Göttingen
Hildesheim
Braunschweig
Magdeburg
Halberstadt
Harz
Erfurt
Weimar
Jena
Gera
Plauen
Zwickau
Chemnitz
Aue
Freiberg
Dresden
Meissen
Riesa
Torgau
Wittenberg
Dessau
Leipzig
Halle
Naumburg
Weissenfels
Merseburg
Zeitz
Altenburg
Greiz
Hof
Bayreuth
Coburg
Kronach
Bamberg
Nürnberg
Fürth
Erlangen
Ansbach
Crailsheim
Aalen
Ulm
Augsburg
München
Ingolstadt
Landshut
Passau
Regensburg
Straubing
Deggendorf
Freising
Rosenheim
Garmisch
Füssen
Kempten
Memmingen
Ravensburg
Friedrichshafen
Konstanz
Bregenz
Feldkirch
Innsbruck
Landeck
Ötztaler Alpen
Merano
Bolzano
Brenner Pass
Arlberg
Lech
Imst
Reutte
Oberstdorf
Garmisch
Zugspitze
Partenkirchen
Basel
Zürich
St. Gallen
Chur
Davos
Lugano
Bern
Lausanne
Geneva
Fribourg
Solothurn
Biel
Aarau
Luzern
Liechtenstein
Vaduz
Arlberg
St. Gotthard
Mulhouse
Belfort
Strasbourg
Saverne
Sarrebourg
Metz
Thionville
Verdun
Reims
St. Quentin
Cambrai
Dunkerque
Lille
Roubaix
Tournai
Mons
Charleroi
Namur
Dinant
Rochefort
Libramont
Arlon
Luxembourg
Trier
Bitburg
Prüm
Daun
Mayen
Koblenz
Andernach
Bad Godesberg
Siegburg
Gummersbach
Wuppertal
Solingen
Remscheid
Hagen
Iserlohn
Lüdenscheid
Olpe
Siegen
Dillenburg
Wetzlar
Gießen
Limburg
Hadamar
Montabaur
Bad Ems
Kreuznach
Bad Kreuznach
Idar-Oberstein
Birkenfeld
Zweibrücken
Pirmasens
Landau
Speyer
Schwetzingen
Heidelberg
Mosbach
Neckarsulm
Heilbronn
Crailsheim
Schwäbisch Hall
Aalen
Heidenheim
Ellwangen
Nördlingen
Donauwörth
Ingolstadt
Neuburg
Dachau
Freising
Landshut
Mühldorf
Rosenheim
Traunstein
Berchtesgaden
Salzburg
Hallein
Bad Ischl
Gmunden
Attersee
Traunsee
Mondsee
Wolfgangsee
St. Wolfgang
Bad Aussee
Leoben
Kapfenberg
Bruck a d M.
Mürzzuschlag
Semmering
Wiener Neustadt
Baden
Mödling
Hainburg
Bratislava
Wien
Klosterneuburg
Stockerau
Korneuburg
Tulln
Krems
Melk
Amstetten
Steyr
Linz
Urfahr
Enns
Wels
Braunau
Ried
Schärding
Passau
Vilshofen
Deggendorf
Straubing
Regensburg
Cham
Furth im Wald
Domažlice
Klatovy
Plzeň
Karlovy Vary
Cheb
Mariánské Lázně
Sokolov
Ostrov
Most
Teplice-Šanov
Ústí nad Labem
Děčín
Litoměřice
Louny
Lovosice
Roudnice
Mělník
Kralupy
Prague
Kolín
Kutná Hora
Čáslav
Havlíčkův Brod
Jihlava
Znojmo
Břeclav
Hodonín
Uherské Hradiště
Zlín
Vsetín
Frýdek-Místek
Ostrava
Karviná
Havířov
Orlová
Třinec
Český Těšín
Bielsko-Biała
Cieszyn
Żywiec
Wadowice
Oświęcim
Chrzanów
Olkusz
Zawiercie
Dąbrowa Górnicza
Sosnowiec
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Tarnowskie Góry
Gliwice
Zabrze
Bytom
Ruda Śląska
Chorzów
Piekary Śląskie
Siemianowice Śląskie
Rybnik
Wodzisław Śląski
Jastrzębie-Zdrój
Żory
Pszczyna
Racibórz
Kędzierzyn-Koźle
Prudnik
Nysa
Kłodzko
Dzierżoniów
Świdnica
Wałbrzych
Jelenia Góra
Zgorzelec
Lubań
Bogatynia
Turoszów
Legnica
Głogów
Lubin
Polkowice
Chojnów
Bolesławiec
Zielona Góra
Żagań
Żary
Gubin
Krosno Odrzańskie
Gorzów Wielkopolski
Międzyrzecz
Sulęcin
Słubice
Frankfurt an der Oder
Eisenhüttenstadt
Fürstenwalde
Strausberg
Bad Freienwalde
Eberswalde
Angermünde
Prenzlau
Pasewalk
Ueckermünde
Anklam
Greifswald
Stralsund
Rügen
Sassnitz
Saßnitz
Stubbenkammer
Trelleborg
Ystad
Simrishamn
Ronne
Gotland
Visby
Öland
Borgholm
Kalmar
Oskarshamn
Västervik
Norrköping
Linköping
Motala
Mjölby
Vadstena
Karlskoga
Örebro
Hallsberg
Arboga
Västerås
Eskilstuna
Strängnäs
Nyköping
Södertälje
Stockholm
Uppsala
Gävle
Sandviken
Hudiksvall
Söderhamn
Bollnäs
Ljusdal
Sundsvall
Härnösand
Kramfors
Örnsköldsvik
Skellefteå
Piteå
Luleå
Kalix
Haparanda
Tornio
Kemi
Rovaniemi
Kemijärvi
Salla
Kuusamo
Oulu
Kajaani
Iisalmi
Kuopio
Varkaus
Joensuu
Lieksa
Nurmes
Kitee
Savonlinna
Mikkeli
Lappeenranta
Imatra
Hamina
Kotka
Hamina
Helsinki
Espoo
Hanko
Turku
Salo
Loimaa
Tampere
Nokia
Pori
Rauma
Uusikaupunki
Vaasa
Kokkola
Jakobstad
Kristinestad
Kaskinen
Mariehamn
Åland
Tallinn
Paldiski
Haapsalu
Pärnu
Kuressaare
Saaremaa
Hiiumaa
Riga
Jūrmala
Ventspils
Liepāja
Klaipėda
Šiauliai
Kaunas
Vilnius
Trakai
Alytus
Druskininkai
Lida
Hrodna
Grodno
Białystok
Augustów
Suwałki
Ełk
Giżycko
Mrągowo
Olsztyn
Ostróda
Iława
Malbork
Elbląg
Frombork
Braniewo
Tczew
Gdańsk
Sopot
Gdynia
Puck
Hel
Władysławowo
Kołobrzeg
Darłowo
Ustka
Słupsk
Lębork
Wejherowo
Kartuzy
Kościerzyna
Starogard Gdański
Chojnice
Tuchola
Świecie
Inowrocław
Toruń
Włocławek
Płock
Mława
Ciechanów
Przasnysz
Ostrołęka
Łomża
Zambrów
Siedlce
Mińsk Mazowiecki
Otwock
Warszawa
Piaseczno
Grójec
Żyrardów
Sochaczew
Skierniewice
Łowicz
Gostynin
Kutno
Konin
Turek
Koło
Ostrów Wielkopolski
Kalisz
Ostrzeszów
Kępno
Wieruszów
Sieradz
Zduńska Wola
Pabianice
Łódź
Tomaszów Mazowiecki
Bełchatów
Piotrków Trybunalski
Radomsko
Częstochowa
Kłobuck
Lubliniec
Olesno
Kluczbork
Namysłów
Brzeg
Nysa
Prudnik
Głubczyce
Racibórz
Rybnik
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Zamość
Hrubieszów
Tomaszów Lubelski
Biłgoraj
Janów Lubelski
Kraśnik
Opole Lubelskie
Puławy
Nałęczów
Kazimierz Dolny
Dęblin
Garwolin
Sokołów Podlaski
Ostrów Mazowiecka
Wyszków
Pułtusk
Nowy Dwór Mazowiecki
Legionowo
Modlin
Nowy Dwór Gdański